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Subject:	Proposal for a Regulation of the European Parliament and of the Council laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

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Encl.: COM(2013) 106 final



Brussels, 27.2.2013  
COM(2013) 106 final

2013/0063 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down the trade arrangements applicable to certain goods resulting from the  
processing of agricultural products**

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## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### (1) Grounds for and objectives of the proposal

A. The purpose of the proposed Regulation (EU) of the Council and of the Parliament replacing the trade arrangements for Processed Agricultural Products/non-Annex I goods, currently laid down in Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products<sup>1</sup> is:

- to align it with the legal obligation to differentiate between delegated and implementing powers of the Commission, introduced by Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).
- to align it with the Regulation of the European Parliament and of the Council No .../... [COM(2010) 799 final] establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products<sup>2</sup>. This Regulation is the proposed single Common Market Organisation for agricultural products (sCMO) after its alignment to the legal requirements of the Lisbon Treaty concerning delegated and implementing powers of the Commission).
- to align it with the Regulation of the European Parliament and of the Council No .../... [COM(2011) 626 final] establishing a common organisation of the markets in agricultural products<sup>3</sup>. This Regulation is the proposed single Common Market Organisation for agricultural products (sCMO) after its adaptation to the Common Agricultural Policy (CAP) towards 2020 and to the Multiannual Financial Framework (MFF) for 2014-2020.
- to align it with Council Regulation [COM(2011) 629 final] determining measures on fixing aids and refunds related to the common organisation of the markets in agricultural products
- to update the Annexes to the current Regulation (EC) No 1216/2009 and to integrate the Annexes I and II to implementing Regulation (EC) No 578/2010 in the basic act, taking into account that Regulation (EU) No .../... [COM(2011) 626 final] does not provide for an Annex replacing Annex XX to Regulation (EU) No 1234/2007.
- to align the common system of trade for ovalbumin and lactalbumin, actually laid down in Council Regulation (EC) No 614/2009 of 7 July

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<sup>1</sup> OJ L 328, 15.12.2009, p. 10.

<sup>2</sup> COM (2010) 799 final, 21.12.2010.

<sup>3</sup> COM(2011) 626 final, 12.10.2011.

2009 on the common system of trade for ovalbumin and lactalbumin<sup>4</sup>, to the Lisbon Treaty and its differentiation between delegated and implementing powers. For reasons of rationalisation, harmonisation and simplification, the common system of trade for ovalbumin and lactalbumin- processed agricultural products which are not included in Annex I to the Treaty and which do not fall under the single Common market organisation for agricultural products – is proposed to be integrated in the trade regime applicable to certain goods resulting from the processing of agricultural products, actually laid down in Regulation (EC) No 1216/2009.

- to simplify and update the current legal text which, although codified in 2009, has been in place since 1993 without major changes, improve its readability and its understandability and provide a more clear and solid legal basis for implementing rules. For reasons of clarity and simplification, overlaps with other legal texts such as Regulation (EEC) No 2913/1992 of 12 October 1992 establishing the Community Customs code<sup>5</sup>, Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>6</sup> and Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>7</sup> have been removed.
- to create a solid legal framework for the management of the reduced import duties and import quotas as provided for by Free Trade Agreements (FTAs) and for the management of the export refund system and adapt the text to current practices in FTAs and export refunds.

B. The alignment to the Lisbon Treaty of the sCMO concerns the following point:

- the common organisation for agricultural markets and the trade regime for processed agricultural products contain similar provisions about the import or export regime for agricultural products and processed agricultural products respectively (such as by example: reduced import duties, additional import duties, import quotas, export refunds, export licenses/refund certificates, etc ...). They also confer implementing power to the Commission concerning similar competences. Therefore, there should be a parallelism in the way both regulations are adapted to the Lisbon Treaty.

C. The adaptation to the options taken for the sCMO after 2013 in comparison to the current legal texts (Regulation (EC) No 1234/2007 and Regulation (EC) No 1216/2009) concerns the following:

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<sup>4</sup> OJ L 181, 14.07.2009, p.8.

<sup>5</sup> OJ L 302, 19.10.1992, p. 1.

<sup>6</sup> OJ L 256, 7.9.1987, p. 1.

<sup>7</sup> OJ L 299, 16.11.2007, p.1.

- Annex XX of Council Regulation (EC) No 1234/2007 and Annex XVII of Regulation No .../... COM (2010) 799 final] provide for a list of processed goods that are eligible for the granting of export refunds on exportation of certain agricultural products used for their manufacturing. Regulation (EU) No .../... [COM(2011) 626 final] provides in article 133(1)b that export refunds may be granted for certain agricultural products to be exported in the form of processed goods in accordance with Regulation (EC) No 1216/2009. Therefore, this proposal establishes in Annex II the list of non-Annex I goods that are eligible for export refunds.

D. In order to maintain the statu-quo, the proposal contains the following Annexes:

- (1) Annex I is the list with processed agricultural products and replaces the current Annex II to Regulation (EC) No 1216/2009;
- (2) Annex II is the list with non-Annex I goods and replaces the current Annex II to Regulation (EC) No 578/2010 of 29 June 2010 on the implementation of Council Regulation (EC) No 1216/2009 as regards the system of granting export refunds for certain agricultural products exported in the form of goods not listed in Annex I to the Treaty, and the criteria for fixing the amount of such refunds<sup>8</sup> and replaces also the current Annex XX to Regulation (EC) No 1234/2007;
- (3) Annex III is the list with basic products used for the manufacture of non-Annex I goods and replaces the current Annex I to Regulation (EC) No 578/2010;
- (4) Annex IV is the list with processed agricultural products on which additional import duties may be levied and replaces the current Annex III to Regulation (EC) No 1216/2009;
- (5) Annex V is the list with agricultural products used for the manufacture of processed agricultural products and replaces the current Annex I to Regulation (EC) No 1216/2009.

E. Accordingly it is appropriate to repeal Regulations (EC) No 1216/2009 and (EC) No 614/2009.

## **(2) General context**

### **A. Delegated and implementing powers**

Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU) establish a clear distinction between on the one hand the powers delegated to the Commission to adopt non-legislative acts and, on the other, the powers conferred on the Commission to adopt implementing acts:

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<sup>8</sup> OJ L 171, 6.7.2010, p. 1.

- Article 290 TFEU allows the legislator to delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. Legal acts adopted by the Commission by virtue of this Article are referred to in the terminology used by the Treaty as "delegated acts" (Article 290(3)).
- Article 291 TFEU requires Member States to adopt all measures of national law necessary to implement legally binding Union acts. Those acts can confer implementing powers on the Commission where uniform conditions for implementing them are needed. Legal acts adopted by the Commission by virtue of this Article are referred to in the terminology used by the Treaty as "implementing acts" (Article 291(4)).

The proposed alignment to the new requirements resulting from Articles 290 and 291 TFEU is based on a careful qualification of the existing Commission powers under Regulations (EC) No 1216/2009 and 614/2009 as "delegated" or "implementing" which was operated against the background of the implementing measures adopted by the Commission on the basis of its current powers.

Following this exercise, a draft proposal has been prepared. This project provides the Legislator with the power to define the essentials of the trade arrangements applicable to processed agricultural products/non-Annex I goods. The general guidelines for these arrangements and the general principles that underlie them are determined by the Legislator. For example, the general principles for reducing the agricultural part of the import duties, for the management of import quotas or for granting export refunds are fixed by the Legislator. Similarly, the Legislator lays down the principle of establishing a system of refund certificates, the fundamental elements of the rules for fixing export refund rates and the exchange of information.

Pursuant to Article 290 TFEU, the Legislator gives the Commission the power to complete or modify certain non-essential elements of a legislative act. A Commission delegated act may therefore determine the additional elements necessary for the proper functioning of the trade arrangements established by the Legislator. For example, the Commission shall adopt delegated acts in order to lay down the rights (to get refunds for the export of non-Annex I goods) and obligations (to apply for refunds on export of non-Annex I goods) derived from the issue of a refund certificate and, if necessary depending on the economic situation, to specify the cases where a guarantee is not required for the issuance of certificates. The Commission will also be given the power to adapt the annexes to the proposed Regulation to international agreements concluded or provisionally applied in accordance with Article 218 TFEU. Similarly, the Legislator delegates to the Commission the power to adopt appropriate rules in order to ensure the implementation of the Union's preferential trade arrangements and international commitments and to avoid distortion of trade.

Member States in accordance with Article 291 TFEU are responsible for implementing the regime established by the Legislator. However, it is necessary to ensure uniform implementation of the scheme in the Member States. Therefore, the Legislator gives the Commission powers of implementation, in accordance with Article 291(2) TFEU as regards the uniform conditions for the implementation of the



trade arrangements and a general framework of measures and procedures that Member States shall implement.

Those powers should be exercised in accordance with Regulation (EC) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>9</sup>.

The examination procedure should be used for the adoption of the acts implementing this Regulation given that those acts relate to the CAP as referred to in point (ii) of Article 2(2)(b) of Regulation (EU) No 182/2011.

In order to ensure the efficiency and smooth functioning of the trade arrangements, powers should also be conferred on the Commission to carry out certain administrative or management tasks in respect of: fixing the representative prices and trigger volumes for the purposes of import duties and fixing the level of the additional import duty, limiting, rejecting or suspending the issuing of import licences for ovalbumin and lactalbumin, ensuring that the available quantities of tariff quota are not exceeded and that the unused quantities of a tariff quota are reallocated, the management of the process to guarantee that the quantities available under the inward processing regime without prior examination of the economic conditions are not exceeded and the technical measures of adjustment of the refund certificate system for keeping the expenditure within available budget limits

## **B. Council powers under Article 43(3) TFEU**

Article 43(3) TFEU provides that "the Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aids and quantitative limitations. This provision forms an exception from Article 43(2) TFEU which requires the ordinary legislative procedure to be used "to establish the common organisation of agricultural markets and the other provisions necessary for the pursuit of the objectives of the common agricultural policy". It also constitutes an exception from Article 207(2) TFEU which equally requires the ordinary legislative procedure to be used to "adopt the measures defining the framework for implementing the common commercial policy".

As an exception, Article 43(3) TFEU needs therefore to be interpreted restrictively so as to ensure that the Legislator can exercise its legislative prerogatives under Article 43(2) and Article 207(2) TFEU. This includes the Legislator regulating the fundamental elements of the common agricultural policy and of the Common commercial policy and taking the political decisions that shape their structure, and determine their instruments and effects. Against this background the specific procedure laid down in Art. 43(3) TFEU should only be applied where an issue referred to in that provision does not form part of the fundamental policy decisions reserved to the Legislator under Article 43(2) and 207(2) TFEU. Therefore, where such an issue is *inextricably* linked with the political substance of the decisions to be taken by the Legislator, Article 43(3) TFEU should not be applied.

Consequently, the proposal is based on the following principles:

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<sup>9</sup> OJ L 55, 28.2.2011, p.13

- The structural parameters and fundamental elements of the Common Agricultural Policy and the Common Commercial Policy may only be decided by the Legislator. For example, the export refund scheme for non-Annex I goods established by Regulation 1216/2009 and all its elements (refund certificates, small exporters reserve) should stay at the Legislator's level, as these elements are inextricably linked to the definition of the content of the scheme established by the Legislator and the boundaries of this regime.
- Measures on fixing prices, levies, aids and quantitative limitations as referred to in Article 43(3), which do not fall in the scope of Article 43(2) TFEU, shall be taken by the Council. For example, the general principles for the fixation of export refund rates should be determined by the Council under Article 43(3) TFEU. Against this background, it is proposed that measures on the fixing of refund rates as referred to in Article 43(3), which do not fall in the scope of Article 43(2) TFEU, shall be taken by the Council.

Article 43(3) TFEU is an autonomous basis for the adoption of legal acts by the Council. For fixing the refund rates Article 43(3) TFEU applies and in the interest of clarity, the Commission has adopted a separate proposal for a Council Regulation on fixing refunds which explicitly refers to that provision. The Commission has submitted that proposal, which is in common with that needed in the context of the adaptation of the single CMO Regulation (EC) No 1234/2007 to the Lisbon Treaty, in due course to the Council (COM(2011) 629 final<sup>10</sup>).

### **C. The Common Agricultural policy post 2013**

The proposal of Regulation (EU) of the Council and of the Parliament No .../... [COM(2011) 626 final] aims at adapting the single CMO to the Common Agricultural policy post 2013 and to the multiannual financial framework 2014-2020. It is currently the subject of long and exhausting discussions at Council and Parliament level. The proposed Regulation of the European Parliament and of the Council is based on a careful examination of the new CMO post 2013 proposal and the necessary adaptations of current legal arrangements on the trade arrangements for processed agricultural products/non-Annex I goods in order to maintain the status quo.

Consequently, the list containing the non-Annex I goods eligible for export refunds (Annex XX of Regulation (EC) No 1234/2007, annex XVII of COM(2010) 799 final) is transferred from the single CMO to the Regulation laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products.

#### **(3) Consistency with other policies and objectives of the Union**

The proposal is in line with the Common Agricultural Policy and with the Common Commercial Policy.

The proposal is in line with the proposal to adapt the single CMO Regulation (EC) to the Lisbon Treaty (COM(2010) 799 final).

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<sup>10</sup> COM(2011) 629 final, 12.10.2011.

The proposal is in line with the Common Agricultural Policy (CAP) post 2013 and in particular with the proposal to adapt the single CMO Regulation (EC) No .../... [COM(2010) 799 final] to the post 2013 CAP (COM(2011) 626 final).

For reasons of coherence and in order to avoid a legal loophole, this proposal needs to be adapted to the outcome of the discussions in Council and Parliament about proposals (COM(2010) 799 final) and (COM(2011) 626 final).

The proposal is also in line with the Union Customs legislation and in particular with Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Common Customs Code and with Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff. The latter two Regulations will also be aligned to the Lisbon Treaty. Therefore, once a final text of them is adopted, this proposal may need to be adjusted, accordingly.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

### **(1) Consultation of interested parties**

Member States were informed and involved through the channel of an expert group.

### **(2) Collection and use of expertise**

There was no need for consultation of interested parties or for external expertise since the proposal for the alignment of Regulation No 1216/2009 to the Lisbon Treaty is an inter-institutional matter of relevance to all Council Regulations.

The same applies for the adaptation to the CAP after 2013 and to the new MFF 2014-2020 which is a pure technical consequence of the adoption of the new Single CMO Regulation (EC) No .../... [COM(2011) 626 final].

### **(3) Impact assessment**

There is no need for an impact assessment since the proposal to align Regulation No 1216/2009 to the Lisbon Treaty is an inter-institutional matter of relevance to all Council Regulations and the alignment to the new Single CMO Regulation is a consequence of the new CAP after 2013 and the new MFF 2014-2020.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

### **(1) Summary of the proposed action**

1. Identify in Regulation (EC) No 1216/2009 the delegated and implementing powers of the Commission and establish the corresponding procedure for the adoption of these acts and this in parallel with the Lisbon alignment of the sCMO (COM(2010) 799 final).

2. Adapt Regulation (EC) No 1216/2009 to the new Single CMO Regulation [COM (2011)626 final] in the context of the CAP after 2013 and the new MFF 2014-2020.
3. Integrate the common system of trade for ovalbumin and lactalbumin (Regulation (EC) No 614/2009) in the trade regime for processed agricultural products (Regulation (EC) No 1216/2009).

(2) Legal basis

Article 43(2) and Article 207(2) of the Treaty on the Functioning of the European Union.

(3) Subsidiarity principle

Commercial policy is an exclusive competence of the Union – therefore *only the Union*, and not individual Member States, can legislate on trade matters. Agricultural policy is of shared competence between the EU and the Member States. This means that as long as the Union does not legislate in this field, Member States maintain their competence. This proposal is limited to the adaptation of Regulations (EC) No 1216/2009 and (EC) No 614/2009 to new requirements introduced by the Lisbon Treaty on one hand, and to the new Common Agricultural Policy after 2013 on the other hand and thus the existing Union approach is not affected.

(4) Proportionality principle

The proposal complies with the proportionality principle which requires each decision and measure to be based on a fair assessment and balancing of interests, as well as on a reasonable choice of means .

(5) Choice of instruments

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: direct application is due to the nature of the CAP and the Common Commercial Policy and their management requirements and is an indispensable characteristic of CAP and Trade legislation.

#### 4. BUDGETARY IMPLICATION

This measure does not involve any additional Union expenditure

#### 5. ADDITIONAL INFORMATION

The proposal will improve the comprehensibility and accessibility of the legal text laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products. It will consolidate the legal basis for its implementing Regulations and will align the text with existing Commission

provisions for example by adding a provision allowing opening of import quotas and the way of managing them. In addition it will remove inconsistencies in the current legal text such as in Article 14 of Council Regulation (EC) No 1216/2009 that refers to Commission implementing Regulation (EC) No 1460/96<sup>11</sup>, while implementing Regulation (EC) No 1460/96 has Council Regulation (EC) No 1216/2009 as a legal basis.

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<sup>11</sup> JO L 187, 26.7.1996, p. 18.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) and Article 207(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>12</sup>,

Acting in accordance with the ordinary legislative procedure<sup>13</sup>,

Whereas:

- (1) Council Regulation (EC) No 1216/2009 of 30 November 2009 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products<sup>14</sup> and Council Regulation (EC) No 614/2009 of 7 July 2009 on the common system of trade for ovalbumin and lactalbumin<sup>15</sup> need to be adapted as a consequence of the entry into force of the Lisbon Treaty, in particular as regards its introduction of a distinction between powers for the Commission to adopt delegated acts and powers for it to adopt implementing acts. Further adaptations are needed to improve the clarity and transparency of the existing texts.
- (2) Until now the main instrument of the common agricultural policy provided for in the Treaty has been Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>16</sup>.
- (3) In the framework of the reform of the common agricultural policy Regulation (EU) No 1234/2007 is to be replaced, with effect from 1 January 2014, by Regulation (EU) No .../... of the European Parliament and of the Council [COM (2011) 626 final]<sup>17</sup>. Regulations (EC) No 1216/2009 and (EC) No 614/2009 should be adapted to take account of that Regulation in order to maintain the coherence of the trade

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<sup>12</sup> OJ C [...], [...], p. [...].

<sup>13</sup> OJ C [...], [...], p. [...].

<sup>14</sup> OJ L 328, 15.12.2009 p. 10.

<sup>15</sup> OJ L 181, 14.7.2009, p. 8.

<sup>16</sup> OJ L 299, 16.11.2007, p. 1.

<sup>17</sup> OJ C [...], [...], p. [...].

arrangements with third countries for agricultural products on the one hand and for goods resulting from the processing of agricultural products on the other hand.

- (4) Certain agricultural products are used for manufacturing both processed agricultural products and goods not listed in Annex I to the Treaty. It is necessary to take measures both under the common agricultural policy and under the common commercial policy in order to take account of the impact which trade in such products and goods has on the achievement of the objectives of Article 39 of the Treaty and of the effects which measures adopted to implement Article 43 of the Treaty have on the economic position of those products and goods, given the differences between the costs of procuring agricultural products in the Union and on the world market.
- (5) In the Union, a distinction is drawn between agricultural products listed in Annex I to the Treaty and processed agricultural products not listed in that Annex in order to take account of the different situations of agriculture and the food industry in the Union. The same distinction may not be drawn in certain third countries with which the Union concludes agreements. Provision should therefore be made for extending the general rules applicable to processed agricultural products not listed in Annex I to the Treaty to certain agricultural products listed in that Annex where an international agreement provides for the assimilation of those two types of products.
- (6) In order to prevent or counteract adverse effects which imports of certain processed agricultural products could have on the Union market and on the efficiency of the common agricultural policy, it should be possible to subject imports of such products to payment of an additional duty if certain conditions are fulfilled.
- (7) Ovalbumin and lactalbumin are processed agricultural products which are not included in Annex I to the Treaty. For reasons of harmonisation and simplification, the common system of trade for ovalbumin and lactalbumin laid down in Regulation (EC) No 614/2009 should be integrated in the trade arrangements applicable to certain goods resulting from the processing of agricultural products. In view of the fact that to a large extent, eggs can be substituted by ovalbumin and, to a certain extent, by lactalbumin, the trade arrangements for ovalbumin and lactalbumin should correspond to those established for eggs.
- (8) It is necessary to lay down the main rules governing the trade arrangements applicable to processed agricultural products and non-Annex I goods resulting from the processing of agricultural products. It is also necessary to provide for the fixing of reduced import duties and tariff quotas and the granting of export refunds in accordance with those main rules. Those rules and provisions should take account of the constraints on import duties and export subsidies arising from the undertakings accepted by the Union under the WTO agreements and bilateral agreements.
- (9) Due to the close links between the market for ovalbumin and lactalbumin and the market for eggs, it should be possible to require the presentation of an import license for imports of ovalbumin and lactalbumin and suspend the inward processing arrangements for ovalbumin and lactalbumin where the Union market for those products or the market for eggs is disturbed or is liable to be disturbed by inward processing arrangements of ovalbumin and lactalbumin. It should be made possible to make the issue of import licences for ovalbumin and lactalbumin and the release for

free circulation of such products covered by a licence subject to requirements as to the origin and provenance of the product

- (10) In order to take into account the evolution of trade and market developments, the needs of the markets for ovalbumin and lactalbumin or the market for eggs and the results of the monitoring of the imports of ovalbumin and lactalbumin, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of making the import of ovalbumin and lactalbumin for release for free circulation subject to the presentation of an import licence, defining the rights and obligations derived from that import licence and its legal effects, determining the level of tolerance as regards the respect of the obligation to import, laying down the rules as to the indication of the origin and provenance where that is compulsory, providing for the issue of import licences and the release for free circulation to be subject to the presentation of a document issued by a third country or an entity certifying inter alia the origin, the authenticity and the quality characteristics of the products, establishing the rules on transfer of the import licences, establishing the rules necessary for the reliability and the efficiency of the import licence system and providing for specific administrative assistance between Member States where needed in order to prevent or deal with cases of fraud and irregularities, determining the cases where the presentation of an import licence is not required and the cases where the lodging of the security is not required and laying down rules related to the application of horizontal provisions on import licenses for agricultural products and of horizontal rules on securities to import licenses for ovalbumin and lactalbumin.
- (11) Certain processed agricultural products not listed in Annex I to the Treaty are obtained using agricultural products subject to the common agricultural policy. The duties applied to imports of those processed agricultural products should counterbalance the difference between the world market prices and the prices on the Union market for the agricultural products used in their production while ensuring the competitiveness of the processing industry concerned.
- (12) Under certain preferential agreements reductions of import duties for processed agricultural products, which may lead to a phasing out, are granted on the agricultural components of the import duties within the framework of the commercial policy of the Union. Those reductions should be established by reference to the agricultural components applicable to non-preferential trade.
- (13) The agricultural component of the import duty should counterbalance the difference between prices for the agricultural products used in the production of the processed agricultural products in question on the world market and on the Union market. Therefore, it is necessary to maintain a close link between the calculation of the agricultural component of the import duty applicable to processed agricultural products and that applicable to agricultural products imported in the unaltered state.
- (14) In order to implement the international agreements providing for the reduction or phasing out of import duties on processed agricultural products on the basis of specific agricultural products used or considered to have been used in the manufacturing of the processed agricultural products, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of establishing a list of the specific agricultural products considered to have been used, establishing the equivalent quantities and the rules for the conversion of quantities of other agricultural



products than those considered to have been used to equivalent quantities of those specific agricultural products, laying down the elements necessary for the calculation of the reduced agricultural component and the reduced additional duties and establishing the methods of that calculation, establishing the appropriate documentary requirements and laying down the negligible amounts for which the reduced agricultural components and additional duties on sugar and flour shall be fixed at zero.

- (15) Import tariff concessions may be granted for unlimited quantities of the goods concerned or may be granted for limited quantities falling under a tariff quota. Where, under certain preferential agreements, tariff concessions are granted within tariff quotas, the quotas should be opened and managed by the Commission. For practical reasons, it is essential that the management of the non-agricultural part of the import duties of the goods for which tariff preferences have been agreed are subject to the same rules as the management of the agricultural component.
- (16) Due to the close links between the market for ovalbumin and lactalbumin and the market for eggs, tariff quotas for ovalbumin and lactalbumin should be opened and managed in the same way as those for eggs under Regulation (EU) No .../... [COM(2011) 626 final]. Where necessary, the method of management should take account of the supply needs of the Union market and of the need to preserve its equilibrium and should be based on methods used in the past, taking into account the rights arising under the WTO agreements.
- (17) In order to ensure equitable market access for operators and equal treatment of operators, take account of the supply requirements of the Union market and preserve the equilibrium of that market, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of laying down the conditions which must be fulfilled in order to submit an application within a tariff quota and provisions relating to transfer of rights within a tariff quota, providing for the participation in a tariff quota to be subject to the presentation of an import license and the lodging of a security and laying down provisions on documentary evidence, requirements or restrictions applicable to tariff quotas.
- (18) It is possible that the demand of the processing industries for agricultural raw materials cannot be covered completely by Union raw materials under competitive conditions. Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>18</sup> admits such goods under the inward processing arrangements subject to fulfilment of the economic conditions defined by Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code<sup>19</sup>. Under clearly defined circumstances, economic conditions should be considered to be fulfilled for the admission of certain quantities of agricultural products under the inward processing arrangements. Those quantities should be determined on the basis of a supply balance. Fair access to the quantities available, equal treatment of operators and clarity should be assured by a system of inward processing certificates issued by Member States.

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<sup>18</sup> OJ L 302, 19.10.1992 p.1.

<sup>19</sup> OJ L 253, 11.10.1993, p. 1.

- (19) In order to ensure the prudent and efficient management of the inward processing arrangements, taking account of the situation on the Union market for the commodities concerned and of the needs and practices of the processing industries, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of establishing a list of specific agricultural products for which inward processing certificates may be issued, laying down the conditions and eligibility requirements that operators need to fulfil in order to submit an application for an inward processing certificate, the rights derived from the inward processing certificates and its legal effects, provisions relating to the transfer of those rights between operators and provisions on documentary evidence and establishing the rules necessary for the reliability and the efficiency of the inward processing certificate system.
- (20) Arrangements should be made for granting export refunds, within the limit set by the Union's WTO commitments, on certain agricultural products used in the manufacturing of goods not listed in Annex I to the Treaty in order not to penalise producers of those goods for the prices at which they are obliged to procure their supplies as a result of the common agricultural policy. Those refunds should only cover the difference between the price of an agricultural product on the Union market and on the world market. Those arrangements should therefore be established as part of the trade arrangements for certain goods resulting from the processing of agricultural products.
- (21) The list of non-Annex I goods qualifying for refunds should be established taking account of the impact of the difference between the prices of the agricultural products used in their production on the Union market and on the world market and the need to counterbalance this difference in whole or in part in order to facilitate the exportation of the agricultural products used in the non-Annex I goods concerned.
- (22) It is necessary to ensure that no export refund is granted for imported non-Annex I goods released for free circulation which are re-exported, exported after processing or incorporated in other non-Annex I goods. As regards imported cereals, rice, milk and milk products or eggs released for free circulation it is necessary to ensure that no refund is granted where the goods are exported after processing or incorporated in non-Annex I goods.
- (23) The export refund rates for agricultural products exported in the form of non-Annex I goods should be fixed in accordance with the same rules and modalities and in accordance with the same procedure as the export refund rates for agricultural products exported in the unaltered state pursuant to Regulation (EU) No .../... [COM(2011) 626 final] and Regulation (EC) No .../... of the European Parliament and of the Council [COM(2011) 629 final].
- (24) Given the close relationship between non-Annex I goods and the agricultural products which are used in the manufacturing of those non-Annex I goods, on the one hand, and the differences between those goods and products on the other hand, it is necessary to provide for the application of the horizontal rules and conditions relating to export refunds and export licenses laid down in and adopted pursuant to Regulation (EU) No .../... [COM(2011) 626 final], to non-Annex I goods. It is also necessary to provide for the application of horizontal provisions on securities, checks, verification and penalties laid down in and adopted pursuant to Regulation (EU) No .../... of the

European Parliament and of the Council [COM(2011) 628 final]<sup>20</sup> to non-Annex I goods.

- (25) In order to take account of the specific manufacturing processes and trading requirements of non-Annex I goods incorporating certain agricultural products, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of establishing the rules relating to the definition and characteristics of the non-Annex I goods to be exported and the agricultural products used for their manufacture, rules on the calculation of the export refunds for certain agricultural products exported after processing into non-Annex I goods, rules on the proof of the composition of the exported non-Annex I goods, rules on the simplified proof of arrival at destination in the case of differentiated refunds, rules on the requirement of a declaration of the use of certain imported agricultural products, rules on the assimilation of other agricultural products to basic products and on the determination of the reference quantity of each of the basic products, rules on the application for and the issue of certificates for the export of certain non-Annex I goods to certain destinations when provided for in an international agreement concluded by the Union in accordance with Article 218 of the Treaty, and rules on the application of the horizontal provisions on export refunds for agricultural products and on securities, checks, verifications and penalties to non-Annex I goods.
- (26) Compliance with the export limits arising from international agreements concluded by the Union in accordance with Article 218 of the Treaty should be ensured through the issuing of refund certificates for the reference periods laid down in the agreements taking into account the annual amount provided for in respect of small exporters.
- (27) Export refunds should be granted up to the total amount available, depending on the particular situation of trade in non-Annex I goods. The system of refund certificates should facilitate the efficient management of the amounts of refunds.
- (28) Provision should be made for refund certificates issued by Member States to be valid throughout the Union and for their issuance to be subject to the lodging of a security guaranteeing that the operator will apply for refunds. Rules should be laid down for refunds under the advance fixing system to be granted for all the applicable refund rates and for the lodging and release of securities.
- (29) In order to monitor the expenditure on export refunds and the implementation of the refund certificate system, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of defining the rights and obligations derived from refund certificates, specifying the rules relating to their transfer, identifying the cases where the presentation of a refund certificate or the lodging of a security is not required and specifying the level of tolerance in the event of non-respect of the obligation to apply for refunds and rules on the application of horizontal rules on export licenses and on securities to refund certificates.
- (30) When taking account of the impact of targeted measures relating to export refunds consideration should be given to enterprises processing agricultural products in general and the situation of small and medium-sized enterprises in particular. In view of the specific needs of small exporters, a global amount should be allocated to them

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<sup>20</sup> COM(2011) 628 final, 12.10.2011.

for each budget year, and they should be exempted from the requirement to submit refund certificates under the export refund arrangements.

- (31) Where pursuant to Regulation (EU) No .../... [COM(2011) 626 final] measures with regard to export of an agricultural product are adopted and the export of non-Annex I goods with a high content of the agricultural product is likely to hinder the achievement of the objective of those measures, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of providing for equivalent measures to be taken with regard to exports of those non-Annex I goods.
- (32) Under certain preferential agreements, the Union may limit import duties and amounts payable in respect of exports in order to counterbalance, in whole or in part, differences in the price of agricultural products used in the production of the processed agricultural products or the non-Annex I goods in question. For those processed agricultural products and non-Annex I goods, it is necessary to establish that those amounts are to be determined jointly as a part of the overall duty and are to counterbalance the differences between the prices of the agricultural products that have to be taken into account on the market of the country or the region concerned and the Union market..
- (33) As the composition of processed agricultural products and non-Annex I goods may be relevant for the right application of the trade arrangements laid down in this Regulation, it should be possible to establish their composition using qualitative and quantitative analyses.
- (34) In order to implement international agreements concluded by the Union and ensure clarity and coherence with amendments to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff<sup>21</sup>, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of amending certain parts of this Regulation and its Annexes for those purposes.
- (35) Provision should be made for Member States to provide the Commission and each other with the information necessary for the implementation of the trade arrangements for processed agricultural products and non-Annex I goods.
- (36) In order to ensure an appropriate exchange of information between Member States and the Commission the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of defining the nature and type of the information to be communicated, the methods of communication, the rules on rights of access to the information and information systems and the conditions and means of publication of this information.
- (37) In order to avoid unnecessary administrative burdens for operators and national authorities the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of setting a threshold below which amounts are not to be levied or granted in respect of import duties, additional import duties,

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<sup>21</sup> OJ L 256, 7.9.1987, p. 1.

reduced import duties, export refunds and amounts to be levied or payable when offsetting a jointly established price.

- (38) In order to ensure uniform conditions for the implementation of this Regulation as regards imports and inward processing arrangements, implementing powers should be conferred on the Commission in respect of measures determining the processed agricultural products to which additional import duties should apply in order to prevent or counteract adverse effects on the Union market, measures for the application of those additional import duties as regards time limits for proving the import price, submitting documentary evidence, the lodging of a security and determining the additional import duties, measures fixing the representative prices and trigger volumes for the purposes of applying additional import duties, and measures determining the level of those duties based on the difference between the reference prices and trigger prices or between the CIF import prices and the trigger prices, in accordance with the Union's international commitments, measures on the submission of applications for import licenses for ovalbumin and lactalbumin, on the issuing and use of those import licenses, on their period of validity, on the amount of security to be submitted in respect of those licences, on the proof that the requirements for the use of those licences have been fulfilled, on the issuing of replacement and duplicate import licenses, on the treatment of import licences by the Member States, on the exchange of information needed for the management of the system of import licences for ovalbumin and lactalbumin and on the application of horizontal rules on import licenses and horizontal rules on securities to import licences for ovalbumin and lactalbumin, measures limiting the quantities for which those licences may be issued, rejecting quantities applied for and suspending the lodging of applications in order to manage the market, measures on the fixing of import duties for processed agricultural products in the implementation of preferential trade arrangements, measures laying down the quantities of agricultural products considered to have been used in the manufacturing of the processed agricultural products for the purposes of the reduction or phasing out of import duties applicable in preferential trade and measures necessary to avoid diversion of trade, measures laying down the annual tariff quotas for the import of processed agricultural products and certain agricultural products in accordance with the Union's international commitments, measures on the management of those tariff quotas, measures for the application of specific provisions laid down in international agreements in relation to, *inter alia*, the presentation of documents issued by the exporting country and on the destination and use of the product, measures laying down the period of validity of import licences, the amount of security to be lodged, the rules on the use of those import licenses, the specific rules relating to, in particular, the procedures under which applications for import shall be lodged and authorisation granted within the tariff quota, measures guaranteeing that the quantities available within the tariff quotas are not exceeded, measures to reallocate unused quantities of the tariff quota, measures to adopt safeguard measures against imports into the Union in accordance with Council Regulations (EC) No 260/2009 of 26 February 2009 on the common rules for imports<sup>22</sup> and (EC) No 625/2009 of 7 July 2009 on common rules for imports from certain third countries<sup>23</sup> or safeguard measures provided for in international agreements, measures concerning the quantity of agricultural products for which inward processing certificates may be issued,

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<sup>22</sup> OJ L 84, 31.3.2009, p.1.

<sup>23</sup> OJ L 185, 17.7.2009, p. 1.

measures on the implementation of the inward processing certificate system as regards documents and procedures for lodging applications and issuing inward processing certificates, measures on the management of the inward processing certificates by the Member States and the procedures relating to administrative assistance between the Member States, measures limiting the quantities for which inward processing certificates may be issued, rejecting quantities applied for in respect of those certificates and suspending the lodging of applications for inward processing certificates where large quantities are applied for, and measures suspending the use of processing or inward processing arrangements for ovalbumin and lactalbumin.

- (39) In order to ensure uniform conditions for the implementation of this Regulation as regards exports and certain general provisions, implementing powers should be conferred on the Commission in respect of measures on the application of refund rates, on the method of calculation of the export refunds, on the assimilation of certain products to basic products and the determination of the reference quantity of basic products, on the management of certificates for the export of certain non-Annex I goods to certain destinations when provided for in an international agreement concluded by the Union in accordance with Article 218 of the Treaty and on the treatment of disappearances of products and quantity losses during the manufacturing process and the treatment of by-products, measures defining the procedures on declaration and proof of the composition of the exported non-Annex I goods necessary for the implementation of the export refund system, measures on the application of horizontal provisions on export refunds, securities, checks, verification and penalties to export refunds for non-Annex I goods, measures on the implementation of the export refund certificate system as regards documents and procedures for lodging applications and issuing refund certificates, the amount of security to be lodged and the means of proof that the obligations derived from the refund certificate have been fulfilled, measures on the management of export refund certificates by the Member States and the procedures relating to administrative assistance between the Member States as regards the refund certificates, measures on the fixing of the global amount allocated to small exporters and the threshold of exemption from the presentation of refund certificates, measures on the application of horizontal provisions on export licenses and on securities to refund certificates, measures limiting the amounts for which refund certificates may be issued, rejecting amounts applied for in respect of those certificates and suspending the lodging of applications for refund certificates where large amounts are applied for, necessary rules, procedures and technical criteria for the application of other measures with regard of exports, measures on the establishment and publication of import duties and amounts payable on exports in the case of direct offsetting in preferential trade, measures ensuring that processed agricultural products declared for export under a preferential trade agreement are in fact exported under a preferential agreement, measures concerning the methods of qualitative and quantitative analysis of processed agricultural products and non-Annex I goods, the technical provisions necessary for identifying the processed agricultural products and non-Annex I goods and the procedures for the purpose of the classification in the Combined Nomenclature of processed agricultural products and non-Annex I goods, measures necessary for the implementation of the obligations of the Commission and the Member States to exchange information and measures to make information and documents available.
- (40) Those implementing powers, except for the ones concerning measures to fix the representative prices and trigger volumes for the purposes of applying additional

import duties and the level of those duties in accordance with the Union's international commitments, measures limiting the quantities for which import licences, inward processing certificates and refund certificates may be issued, rejecting quantities applied for in respect of those licences and certificates and suspending the lodging of applications for those licences and certificates, measures guaranteeing that the quantities available within the tariff quota are not exceeded and measures to reallocate unused quantities of the tariff quota, should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>24</sup>.

- (41) The examination procedure should be used for the adoption of the acts implementing this Regulation given that those acts relate to the common agricultural policy as referred to in point (ii) of Article 2(2)(b) of Regulation (EU) No 182/2011.
- (42) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to safeguard measures against imports of processed agricultural products into the Union or to a disturbance or a potential disturbance of the Union market requiring the suspension of the use of processing or inward processing arrangements for ovalbumin and lactalbumin, imperative grounds of urgency so require.
- (43) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work prior to adopting delegated acts, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (44) In accordance with the principle of proportionality it is necessary and appropriate for the achievement of the basic objective of this Regulation to lay down the trade arrangements applicable to certain goods resulting from the processing of agricultural products. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (45) Regulations (EC) No 1216/2009 and (EC) No 614/2009 should be repealed accordingly.
- (46) In order to ensure coherence with the common agricultural policy, this Regulation should apply from the same date as Regulation EU No .../... [COM (2011) 626 final on the reform of the CAP],

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<sup>24</sup> OJ L 55, 28.2.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

## **CHAPTER I**

### **SUBJECT MATTER, SCOPE AND DEFINITIONS**

#### **Article 1**

##### *Subject matter and scope*

This Regulation lays down the trade arrangements applicable to imports of processed agricultural products and exports of non-Annex I goods and agricultural products incorporated in those non-Annex I goods.

This Regulation shall also apply to imports of agricultural products where an international agreement concluded or provisionally applied in accordance with Article 218 of the Treaty provides for the assimilation of those products to processed agricultural products subject to preferential trade.

#### **Article 2**

##### *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (a) "agricultural products" means products listed in Article 1 of Regulation (EU) No .../... [COM(2011) 626 final];
- (b) "processed agricultural products" means products listed in Annex I to this Regulation;
- (c) "non-Annex I goods" means those products not listed in Annex I to the Treaty which are listed in Annex II to this Regulation;
- (d) "basic products" means the agricultural products listed in Annex III to this Regulation;
- (e) "agricultural component" means a part of the import duty applicable to processed agricultural products corresponding to the import duties applicable to the agricultural products;
- (f) "additional duties on sugar and flour" means the additional duty on sugar (AD S/Z) and the additional duty on flour (AD F/M) as referred to in Part One, Section I, point B.6, of Annex I to Regulation (EEC) No 2658/87 and laid down in Part Three, Section I, Annex 1, Table 2 of Annex I to that Regulation;
- (g) "ad valorem duty" means the part of the import duty expressed as a percentage rate of the customs value;
- (h) "ovalbumin" means products of CN codes 3502 11 90 and 3502 19 90;
- (i) "lactalbumin" means products of CN codes 3502 20 91 and 3502 20 99.



## **CHAPTER II**

### **IMPORTS OF PROCESSED AGRICULTURAL PRODUCTS**

#### **SECTION I**

##### **GENERAL PROVISIONS FOR IMPORTS**

#### **SUBSECTION I**

##### **IMPORT DUTIES ON PROCESSED AGRICULTURAL PRODUCTS**

###### **Article 3**

###### *Components of import duties*

1. For processed agricultural products listed in Table 1 of Annex I, the import duties fixed in the Common Customs Tariff shall consist of an agricultural component which is not part of an ad valorem duty and a non-agricultural component which is an ad valorem duty.
2. For processed agricultural products listed in Table 2 of Annex I, the import duties fixed in the Common Customs Tariff shall consist of an ad valorem duty and an agricultural component which is part of the ad valorem duty.

###### **Article 4**

###### *Maximum rate of import duty*

1. Where a maximum rate of duty is to be applied, the method of calculation to determine that maximum rate of duty shall be fixed in the Common Customs Tariff by virtue of Article 31 of the Treaty.
2. Where, for processed agricultural products listed in Table 1 of Annex I, the maximum rate of duty comprises an additional duty on sugar and flour, the method of calculation to determine that additional duty shall be fixed in the Common Customs Tariff by virtue of Article 31 of the Treaty.

###### **Article 5**

###### *Additional import duties for preventing or counteracting adverse effects on the Union market*

1. The Commission may, by means of implementing acts, determine the processed agricultural products listed in Annex IV to which, when imported subject to the rate of duty laid down in the Common Customs Tariff, an additional import duty shall apply in order to prevent or counteract adverse effects on the Union market which may result from those imports, if:
  - (a) the imports are made at a price below the level notified by the Union to the WTO ('the trigger price'); or
  - (b) the volume of imports in any year exceeds a certain level ('the trigger volume').

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. Additional import duties shall not be imposed in accordance with paragraph 1 where the imports are unlikely to disturb the Union market, or where the effects would be disproportionate to the intended objective.
3. For the purposes of paragraph 1(a), import prices shall be determined on the basis of the CIF import prices of the consignment under consideration.

CIF import prices shall be checked against the representative prices for the product on the world market or on the Union import market for that product.

The representative prices shall be determined at regular intervals on the basis of data collected under the Community surveillance system established pursuant to Article 20(5)(b) of Regulation (EEC) No 2913/92.

4. The trigger volume shall be based on market access opportunities defined as imports as a percentage of the corresponding domestic consumption during the three previous years.
5. The Commission may adopt the necessary measures for the application of this Article as regards time limits for proving the import price, submitting documentary evidence and the lodging of a security by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).
6. The Commission may, by means of implementing acts, adopt measures to:
  - (a) fix the representative prices and trigger volumes for the purposes of applying additional import duties;
  - (b) fix the level of the additional import duties in accordance with the rules set out in international agreements concluded or provisionally applied in accordance with Article 218 of the Treaty and the rules adopted pursuant to Article 13(1) of this Regulation.
7. The Commission shall publish the trigger prices referred to in paragraph 1(a) in the *Official Journal of the European Union*.

## **SUBSECTION II**

### **IMPORT OF OVALBUMIN AND LACTALBUMIN**

#### **Article 6**

##### *Imports licences for ovalbumin and lactalbumin*

1. The import for release for free circulation of ovalbumin and lactalbumin may be made subject to presentation of an import licence, where necessary for the management of the markets concerned and, in particular, for monitoring trade in these products.

2. Member States shall issue the import licences referred to in paragraph 1 to any applicant for an import licence established in the Union, irrespective of his place of establishment and without prejudice to measures taken in accordance with Article 14.
3. The import licences referred to in paragraph 1 shall be valid throughout the Union.
4. The issue of import licences and the release for free circulation of the goods covered by the licence may be made subject to requirements as to the origin and provenance of the product referred to in paragraph 1 and to the presentation of a document issued by a third country or an entity certifying *inter alia* the origin, the authenticity and the quality characteristics of the products

#### **Article 7**

##### *Security in respect of import licences*

1. The import licences referred to in Article 6 shall be issued subject to the lodging of a security guaranteeing that the economic operator will import the products within the period of validity of the import licence.
2. The security shall be forfeited in whole or in part if the products are not imported within the period of validity of the import licence.
3. However, the security shall not be forfeited if it was due to force majeure that the products were not imported within that period or if the quantity which was not imported within that period is within the level of tolerance.

#### **Article 8**

##### *Delegated powers*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 to:

- (a) make the import of ovalbumin and lactalbumin for release for free circulation subject to presentation of an import licence;
- (b) define the rights and obligations derived from the import licence and its legal effects;
- (c) determine the level of tolerance referred to in the second subparagraph of Article 7(2) having regard the need to monitor trade in those products;
- (d) lay down the rules as to the indication of the origin and provenance where that indication is compulsory;
- (e) provide for the issue of import licences and the release for free circulation of the goods covered by the licence to be subject to the presentation of a document issued by a third country or an entity certifying *inter alia* the origin, the authenticity and the quality characteristics of the products;
- (f) establish rules on transfer of import licences and lay down restrictions on transfer of import licences;

- (g) establish the rules necessary for the reliability and the efficiency of the import licence system and provide for specific administrative assistance between Member States where needed in order to prevent or deal with cases of fraud and irregularities;
- (h) determine the cases where the presentation of an import licence is not required;
- (i) determine the cases where the lodging of the security is not required under Article 7;
- (j) lay down rules related to the application of horizontal rules on import licenses for agricultural products adopted pursuant to Article 118 of Regulation (EU) No .../... [COM(2011) 626 final] to import licenses for ovalbumin and lactalbumin;
- (k) lay down rules related to the application of horizontal rules on securities, adopted pursuant to Article 67(3) of Regulation (EU) No .../... [COM(2011) 628 final] to import licenses for ovalbumin and lactalbumin.

### **Article 9**

#### *Implementing powers*

1. The Commission shall, by means of implementing acts, adopt the necessary measures concerning:
  - (a) the submission of applications for import licences, the issuing of those licences and their use;
  - (b) the period of validity of the import licence and the amount of security to be submitted;
  - (c) proof that the requirements for the use of import licences have been fulfilled;
  - (d) the issuing of replacement import licences and duplicate import licences;
  - (e) the treatment of import licences by Member States;
  - (f) the exchange of information needed for the management of the system;
  - (g) the application of horizontal provisions on import licenses for agricultural products adopted pursuant to Article 119 of Regulation (EU) No .../... [COM(2011) 626 final] to import licenses for ovalbumin and lactalbumin;
  - (h) the application of horizontal provisions on securities adopted pursuant to Article 67(4) of Regulation (EU) No .../... [COM(2011) 628 final] to import licenses for ovalbumin and lactalbumin.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. Where large quantities are applied for, the Commission may, in order to manage the market, by means of implementing acts, limit the quantities for which import

licences may be issued, reject quantities applied for in respect of import licences and suspend the lodging of applications for import licences.

## **SECTION II PREFERENTIAL TRADE**

### **SUBSECTION I REDUCTION OF IMPORT DUTIES**

#### **Article 10**

*Reduction and phasing out of agricultural components, ad valorem duties and additional duties*

1. Where an international agreement concluded or provisionally applied in accordance with Article 218 of the Treaty provides for a reduction or consecutive reductions leading to a phasing out of import duties for processed agricultural products subject to preferential trade, the following shall be subject to that reduction or phasing out:
  - (a) the agricultural component;
  - (b) the additional duties on sugar and flour;
  - (c) the ad valorem duty.
2. Where an international agreement concluded or provisionally applied in accordance with Article 218 of the Treaty provides for a reduction or phasing out of the agricultural components with regard to the products listed in Table 2 of Annex I to this Regulation, the duty consisting of the agricultural component, which is part of the ad valorem duty, shall be replaced by a non ad valorem agricultural component.

#### **Article 11**

*Quantities actually used or considered to have been used*

1. The reductions or phasing out of agricultural components or additional duties on sugar and flour in accordance with Article 10(1) shall be determined on the basis of the following:
  - (a) the quantities of the agricultural products listed in Annex V which have been actually used or are considered to have been used in the manufacturing of the processed agricultural product;
  - (b) the duties that apply to the agricultural products referred to in point (a) and which are used for calculating the reduced agricultural component and additional duties on sugar and flour in the case of certain preferential trade arrangements.
2. The agricultural products to be considered to have been used in the manufacture of the processed agricultural product shall be selected among those used in the

manufacture of the processed agricultural product on the basis of their importance in international trade and the representative nature of their price levels for all the other agricultural products used in the manufacture of that processed agricultural product.

3. The quantities of agricultural products listed in Annex V and actually used, shall be converted to equivalent quantities of the specific agricultural products considered to have been used.

## **Article 12**

### *Delegated powers*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 to:

- (a) establish a list of those agricultural products listed in Annex V which are to be considered to have been used in the manufacture of the processed agricultural products on the basis of the selection criteria laid down in Article 11(2);
- (b) establish the equivalent quantities and the rules for the conversion provided for in Article 11(3);
- (c) lay down the elements necessary for the calculation of the reduced agricultural component and the reduced additional duties and establish the methods of that calculation;
- (d) establish documentary requirements;
- (e) lay down the negligible amounts for which the reduced agricultural components and additional duties on sugar and flour shall be fixed at zero.

## **Article 13**

### *Implementing powers*

1. The Commission shall, where appropriate, by means of implementing acts, adopt measures to implement international agreements concluded or provisionally applied in accordance with Article 218 of the Treaty as regards the fixing of import duties for processed agricultural products subject to reduction in accordance with Article 10(1) and (2) of this Regulation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. The Commission may, by means of implementing acts, adopt the necessary measures laying down:
  - (a) fixed quantities of the agricultural products referred to in Article 12(a) considered to have been used in the manufacturing of the processed agricultural products as referred to in Article 12(a);
  - (b) quantities of the agricultural products, referred to in Article 12(a) considered to have been used in the manufacturing of the processed agricultural products, for

each possible composition of those processed agricultural products for which fixed quantities of the specific agricultural products cannot be established in accordance with point (a).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

## **SUBSECTION II**

### **TARIFF QUOTAS**

#### **Article 14**

##### *Opening and management of tariff quotas*

1. Tariff quotas for the import of processed agricultural products and of agricultural products referred to in the second paragraph of Article 1, laid down in agreements concluded or provisionally applied in accordance with Article 218 of the Treaty shall be opened and managed by the Commission.
2. The tariff quotas referred to in paragraph 1 shall be managed in a manner which avoids any discrimination between operators and which gives due weight to the supply requirements of the Union market and the need to preserve the equilibrium of that market.
3. The tariff quotas referred to in paragraph 1 shall be managed by applying one of the following methods:
  - (a) a method of allocation based on the chronological order of the submission of applications ("first come, first served principle");
  - (b) another appropriate method of allocation.
4. By way of derogation from paragraph 3, where the tariff quota to be managed in accordance with paragraph 1 concerns ovalbumin or lactalbumin, the tariff quota shall be managed by applying one of the following methods or a combination of them:
  - (a) a method of allocation of quotas in proportion to the quantities requested in the applications ("simultaneous examination method");
  - (b) a method of allocation based on traditional trade patterns ("traditional/newcomers method");
  - (c) a method of allocation based on the chronological order of the submission of applications ("first come, first served principle").

**Article 15**  
*Delegated powers*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 laying down:

- (a) the conditions and eligibility requirements that an operator has to fulfil in order to submit an application within the tariff quota set out in an international agreement as referred to in Article 14(1);
- (b) provisions relating to the transfer of rights between operators and, where necessary, the limitations to that transfer within the management of the tariff quota set out in an international agreement as referred to in Article 14(1);
- (c) provisions making the participation in the tariff quota set out in an international agreement as referred to in Article 14(1) conditional on the presentation of an import licence and on the lodging of a security;
- (d) the necessary provisions on documentary evidence, requirements or restrictions applicable to the tariff quota set out in an international agreement as referred to in Article 14(1).

**Article 16**  
*Implementing powers*

1. The Commission shall, by means of implementing acts, adopt the necessary measures laying down:

- (a) the annual tariff quotas;
- (b) the management to be used for the annual tariff quotas;
- (c) procedures for the application of the specific provisions laid down in the international agreement, in particular on:
  - (i) the presentation of documents issued by the exporting country;
  - (ii) destination and use of the products;
- (d) the period of validity of the import licences to be presented in accordance with Article 15(c);
- (e) the amount of security to be lodged in accordance with Article 15(c);
- (f) rules on the use of import licences to be presented in accordance with Article 15(c) and specific rules relating, in particular, to the procedures under which applications for import shall be lodged and authorisation granted within the tariff quota.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).



2. The Commission shall, by means of implementing acts adopt measures to:
  - (a) ensure that the quantities available within the tariff quota are not exceeded, in particular by applying an allocation coefficient to each application when the available quantities are reached, rejecting pending applications and, where necessary, suspending the submission of applications;
  - (b) reallocate unused quantities of the tariff quota.

### **SECTION III SAFEGUARD MEASURES**

#### **Article 17** *Safeguard measures*

1. The Commission shall, subject to paragraph 3 of this Article, by means of implementing acts, take safeguard measures against imports of processed agricultural products into the Union in accordance with Regulations (EC) No 260/2009 and (EC) No 625/2009.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. Save as otherwise provided for pursuant to any other act of the European Parliament and the Council and any other act of the Council, the Commission shall, in accordance with paragraph 3 of this Article and by means of implementing acts, take safeguard measures against imports of processed agricultural products into the Union provided for in international agreements concluded or provisionally applied in accordance with Article 218 of the Treaty.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

3. The Commission may take the measures referred to in paragraphs 1 and 2 at the request of a Member State or on its own initiative.

Where the Commission receives a request from a Member State, it shall take a decision thereon within five working days following receipt of the request.

4. On imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts relating to the safeguard measures provided for in paragraphs 1 and 2 in accordance with the procedure referred to in Article 42(3).
5. Union safeguard measures adopted pursuant to paragraph 3 and 4 shall be revoked or amended by the Commission by means of implementing acts in accordance with Article 42(2). In cases of urgency, the Commission shall take a decision, acting in accordance with Article 42(3).

## **SECTION IV**

### **INWARD PROCESSING**

#### **Article 18**

*Inward processing of agricultural products without examination of the economic conditions*

1. Where non-Annex I goods are obtained from agricultural products under inward processing, the economic conditions referred to in Article 117(c) of Regulation (EEC) No 2913/92 shall be deemed to have been fulfilled on presentation of an inward processing certificate for those agricultural products.
2. Inward processing certificates shall be issued for agricultural products used in the manufacturing of the non-Annex I goods within the limits of quantities determined by the Commission.

Those quantities shall be determined on the basis of a balancing of the compulsory budgetary limits for export refunds for non-Annex I goods and the expected expenditure requirements for export refunds for non-Annex I goods in particular, taking account of:

- (a) the estimated volume of exports of the non-Annex I goods concerned;
- (b) the Union market and world market situation of the relevant basic products, where applicable;
- (c) economic and regulatory factors.

The quantities shall be reviewed at regular intervals in order to take account of developments in economic and regulatory factors.

3. Member States shall issue the inward processing certificates referred to in paragraph 1 to any applicant for a certificate established in the Union, irrespective of his place of establishment.

Inward processing certificates shall be valid throughout the Union.

#### **Article 19**

*Delegated powers*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 laying down:

- (a) a list of those agricultural products listed in Annex III and used in the manufacturing of non-Annex I goods, for which inward processing certificates may be issued;
- (b) the conditions and eligibility requirements that an operator has to fulfil in order to submit an application for an inward processing certificate;
- (c) the rights derived from the inward processing certificate and its legal effects;

- (d) provisions relating to the transfer of rights derived from inward processing certificates between operators and provisions on documentary evidence;
- (e) the rules necessary for the reliability and the efficiency of the inward processing certificate system.

## **Article 20**

### *Implementing powers*

1. The Commission shall, by means of implementing acts, adopt the necessary measures concerning:
  - (a) the determination in accordance with Article 18(2) of the quantity of agricultural products for which inward processing certificates may be issued;
  - (b) the format and the content of applications for inward processing certificates;
  - (c) the format, the content and the period of validity of the inward processing certificates;
  - (d) the procedure for lodging applications and issuing inward processing certificates;
  - (e) the management of the inward processing certificates by the Member States;
  - (f) the procedures relating to administrative assistance between Member States.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. Where large quantities are applied for, the Commission may, by means of implementing acts, limit the quantities for which inward processing certificates may be issued, reject quantities applied for in respect of inward processing certificates and suspend the lodging of applications for inward processing certificates.

## **Article 21**

### *Suspension of inward processing arrangements for ovalbumin and lactalbumin*

1. Where the Union market is disturbed or is liable to be disturbed by inward processing arrangements, the Commission may, by means of implementing acts, at the request of a Member State or on its own initiative, fully or partially suspend the use of inward processing arrangements for ovalbumin and lactalbumin.

Where the Commission receives a request from a Member State, it shall, by means of implementing acts, take a decision thereon within five working days following the receipt of the request.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. On imperative grounds of urgency, the Commission shall adopt immediately applicable implementing acts relating to suspension referred to in paragraph 1 in accordance with the procedure referred to in Article 42(3).

## **CHAPTER III EXPORTS**

### **SECTION I EXPORT REFUNDS**

#### **Article 22**

##### *Eligible goods and products*

1. Where non-Annex I goods are exported, the agricultural products listed in points (i), (ii), (iii), (v) and (vii) of Article 133(1)(a) to Regulation (EU) No .../... [COM(2011) 626 final] which have been used in the manufacturing of those non-Annex I goods shall qualify for export refunds as set out in Annex II to this Regulation. Article 133(1)(b) and (2) of Regulation (EU) No .../... [COM(2011) 626 final] shall apply.
2. The export refunds referred to in paragraph 1 shall not be granted in respect of the following:
  - (a) imported non-Annex I goods which are considered to be in free circulation in accordance with Article 29 of the Treaty and which are re-exported;
  - (b) imported non-Annex I goods which are considered to be in free circulation in accordance with Article 29 of the Treaty and which are exported after processing or incorporated in other non-Annex I goods;
  - (c) imported cereals, rice, milk and milk products or eggs which are considered to be in free circulation in accordance with Article 29 of the Treaty and which are exported after processing or incorporated in non-Annex I goods.

#### **Article 23**

##### *Determination of the export refunds*

1. The export refunds referred to in Article 22 shall be determined on the basis of the composition of the exported goods and the export refund rates fixed for each basic product of which the exported goods are composed.
2. For the determination of the export refunds, products listed in points (i), (ii), (iii), (v) and (vii) of Article 133(1)(a) to Regulation (EU) No .../... [COM(2011) 626 final] which are not listed in Annex III to this Regulation shall be assimilated to basic products.

#### **Article 24**

##### *Horizontal rules*

1. The horizontal rules on export refunds for agricultural products laid down in Article 136(4) of Regulation (EU) No .../... [COM(2011) 626 final] shall apply to non-Annex I goods.
2. The horizontal rules on securities, checks, verification and penalties laid down in Articles 60, 61, 62 and 65, Article 67(1) and (2), Articles 79 to 87, Article 105(2), Article 106(1) and (2) and Article 108 of Regulation (EU) No .../... [COM(2011) 628 final] shall apply to non-Annex I goods.

#### **Article 25**

##### *Export refund rates*

1. Measures shall be taken in accordance with Article 135 of Regulation (EU) No .../... [COM(2011) 626 final] and Article 3 of Regulation (EU) No .../... [COM(2011) 629 final] to fix export refund rates for the basic products.
2. For the calculation of the export refunds, other agricultural products which are listed in points (i), (ii), (iii), (v) and (vii) of Article 133(1)(a) of Regulation (EU) No .../... [COM(2011) 626 final] and not listed in Annex III to this Regulation, and which are derived from or assimilated to basic products in accordance with Article 23(2) shall be converted into basic products.

#### **Article 26**

##### *Exports of specific non-Annex I goods to specific destinations*

Where an international agreement concluded by the Union in accordance with Article 218 of the Treaty so requires, the national authorities shall, at the request of the party concerned, issue a certificate stating whether export refunds have been paid in respect of specific non-Annex I goods exported to specific destinations.

#### **Article 27**

##### *Delegated powers*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 laying down:

- (a) rules on the definition and characteristics of the non-Annex I goods to be exported and of the agricultural products used for their manufacture;
- (b) rules on the calculation of the export refunds for agricultural products listed in points (i), (ii), (iii), (v) and (vii) of Article 133(1)(a) of Regulation (EU) No .../... [COM(2011) 626 final], exported after processing into non-Annex I goods;
- (c) rules on the proof of the composition of the exported non-Annex I goods;
- (d) rules on simplified proof of arrival at destination in the case of refunds differentiated according to destination;

- (e) rules requiring a declaration of the use of certain imported agricultural products;
- (f) rules on the assimilation of agricultural products which are listed in points (i), (ii), (iii), (v) and (vii) of Article 133(1)(a) of Regulation (EU) No .../... [COM(2011) 626 final], and which are not listed in Annex III to this Regulation, to basic products and on the determination of the reference quantity of each of the basic products;
- (g) rules on the application for and the issue of certificates referred to in Article 26;
- (h) rules on the application of horizontal rules on export refunds for agricultural products, adopted pursuant to Article 139 of Regulation (EU) No .../... [COM(2011) 626 final], to non-Annex I goods;
- (i) rules related to the application of horizontal rules on securities, checks, verification and penalties, adopted pursuant to Article 64(1), Article 66(1), Article 67(3) and Article 88(1) of Regulation (EU) No .../... [COM(2011) 628 final], to non-Annex I goods.

## **Article 28**

### *Implementing powers*

The Commission shall, by means of implementing acts, adopt the necessary measures on:

- (a) the application of the refund rates where the characteristics of the components of the products referred to in point (c) and of the non-Annex I goods need to be taken into account when calculating the export refunds;
- (b) the calculation of the export refunds for:
  - (i) basic products;
  - (ii) products derived from the processing of basic products;
  - (iii) products assimilated to the products referred to in point (i) or (ii);
- (c) the assimilation of the products referred to in point (b)(ii) and (iii), which are listed in points (i), (ii), (iii), (v) and (vii) of Article 133(1)(a) of Regulation (EU) No .../... [COM(2011) 626 final], and which are not listed in Annex III to this Regulation, to basic products;
- (d) the determination of the reference quantity of each of the basic products that serve as a basis for the determination of export refunds, on the basis of the quantity of the product actually used in the manufacturing of the goods exported or on a fixed basis, as set out in Annex II;
- (e) the management of certificates referred to in Article 26;
- (f) the treatment of disappearances of products and quantity losses during the manufacturing process and the treatment of by-products;

- (g) the procedures on declaration and proof of the composition of the exported non-Annex I goods necessary for the implementation of the export refund system;
- (h) the application of horizontal provisions on export refunds for agricultural products adopted pursuant to Article 140 of Regulation (EU) No .../... [COM(2011) 626 final] to export refunds for non-Annex I goods;
- (i) the application of horizontal provisions on securities, checks, verification and penalties adopted pursuant to Article 64(2), Article 66(2), Article 67(4) and Article 88(2) of Regulation (EU) No .../... [COM(2011) 628 final] to export refunds for non-Annex I goods.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

## **SECTION II**

### **REFUND CERTIFICATES**

#### **Article 29**

*Refund certificates*

1. Export refunds on agricultural products incorporated in non-Annex I goods shall be granted where an application for export refunds has been submitted and a refund certificate which was valid at the time of export, is presented.

Small exporters applying for limited amounts which do not endanger compliance with the budgetary constraints shall be exempted from the presentation of a refund certificate. Those exemptions shall not exceed a global amount allocated to small exporters.

2. Member States shall issue a refund certificate to any applicant for a refund certificate established in the Union, irrespective of the applicant's place of establishment. Refund certificates shall be valid throughout the Union.

#### **Article 30**

*Applicable refund rates*

1. In accordance with Article 23(1), export refunds on non-Annex I goods shall be calculated and granted on the basis of the refund rates for the basic products incorporated in those non-Annex I goods.
2. The rate of the refund to be applied shall be that which applies on the day on which the export declaration for the non-Annex I goods is accepted by the customs authorities unless an application has been made in accordance with paragraph 3 for the refund rate to be fixed in advance.
3. An application for advance fixing of the rate of refund may be submitted at the time of the application for a refund certificate, on the day on which the refund certificate

is granted or at any time after that day but before the end of the validity period of the refund certificate.

4. The rate shall be fixed in advance at the rate applicable on the day of the application for advance fixing. The advance fixing of the refund rates shall apply from that day on to all the refund rates covered by the refund certificate.
5. Export refunds on non-Annex I goods shall be granted on the basis of:
  - (a) the refund rates for the basic products incorporated in those non-Annex I goods, applicable on the day of exportation in accordance with paragraph 1 where the refund rates have not been fixed in advance; or
  - (b) the refund rates for the basic products incorporated in those non-Annex I goods, fixed in advance in accordance with paragraph 4.

### **Article 31**

#### *Security in respect of refund certificates*

1. Refund certificates shall be issued subject to the lodging of a security guaranteeing that the economic operator will lodge an application for export refunds with the national authorities in respect of exports of non-Annex I goods carried out within the period of validity of the refund certificate.
2. The security shall be forfeited in whole or in part if the export refund was not applied for or was applied for only partially in respect of exports carried out within the period of validity of the refund certificate.

However, the security shall not be forfeited if it was due to force majeure that the goods were not exported, or were only partially exported, or that an export refund was not applied for or was applied for only partially or if the amounts of export refund which were not applied for are within the level of tolerance.

### **Article 32**

#### *Delegated powers*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 specifying:

- (a) the rights and obligations derived from the refund certificate including the right that export refunds shall be guaranteed and the obligation to apply for export refunds for agricultural products exported after processing into non-Annex I goods;
- (b) the rules applicable to the transfer of the refund certificate;
- (c) the cases where the presentation of a refund certificate is not required under Article 29(1), taking into account the amounts involved and the global amount that may be granted to small exporters;
- (d) the cases where the lodging of a security is not required under Article 31;



- (e) the level of tolerance referred to in the second subparagraph of Article 31(2) having regard to the need to comply with budgetary constraints;
- (f) rules on the application of horizontal rules on export licenses for agricultural products adopted pursuant Article 118 of Regulation (EU) No .../... [COM(2011)626 final] to refund certificates;
- (g) lay down rules related to the application of horizontal rules on securities, adopted pursuant Articles 67(3) of Regulation (EU) No .../... [COM(2011) 628 final] to refund certificates.

### **Article 33**

#### *Implementing powers*

1. The Commission shall, by means of implementing acts, adopt the necessary measures concerning:
  - (a) the format and the content of the application for the refund certificate;
  - (b) the format, the content and the period of validity of the refund certificate;
  - (c) the procedure for lodging applications and issuing refund certificates;
  - (d) the amount of security to be lodged;
  - (e) the means of proof that the obligations derived from refund certificates have been fulfilled;
  - (f) the management of the refund certificates by the Member States;
  - (g) the procedures relating to administrative assistance between Member States;
  - (h) the fixing of the global amount allocated to small exporters and the individual threshold of exemption from the presentation of refund certificates in accordance with the second subparagraph of Article 29(1);
  - (i) the application of horizontal provisions on export licenses for agricultural products adopted pursuant to Article 119 of Regulation (EU) No .../... [COM(2011) 626 final] to refund certificates;
  - (j) the application of horizontal provisions on securities adopted pursuant to Article 67(4) of Regulation (EU) No .../... [COM(2011) 628 final] to refund certificates.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

2. Where large amounts are applied for, the Commission may, by means of implementing acts, limit the amounts for which refund certificates may be issued, reject amounts applied for in respect of refund certificates and suspend the lodging of applications for refund certificates.

## **SECTION III**

### **OTHER MEASURES WITH REGARD TO EXPORTS**

#### **Article 34**

##### *Other measures with regard to exports*

1. Where pursuant to Regulation (EU) No .../... [COM(2011) 626 final] measures with regard to export of an agricultural product listed in Annex III are adopted in the form of levies or charges, and the export of non-Annex I goods with a high content of that agricultural product is likely to hinder the achievement of the objective of those measures, the Commission shall be empowered to adopt delegated acts in accordance with Article 40 providing for equivalent measures with regard to those non-Annex I goods

Where in the cases referred to in the first subparagraph, imperative grounds of urgency so require, the procedure provided for in Article 41 of this Regulation shall apply to delegated acts adopted pursuant to this paragraph.

2. The Commission shall, by means of implementing acts, adopt necessary rules, procedures and technical criteria for the application of paragraph 1.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

## **CHAPTER IV**

### **MEASURES APPLYING TO BOTH IMPORTS AND EXPORTS**

#### **Article 35**

##### *Direct offsetting in preferential trade*

1. Where an international agreement concluded or provisionally applied in accordance with Article 218 of the Treaty provides for it, the duty applicable on importation of agricultural products may be replaced by an amount established on the basis of the difference between agricultural prices in the Union and those in the country or the region concerned by the agreement, or by an amount offsetting a jointly established price for the country or the region concerned.

In that case, the amounts payable on exports to the country or region concerned by the agreement, shall be determined jointly and on the same basis as the agricultural component of the import duty under the conditions laid down in the agreement.

2. The Commission shall, by means of implementing acts, adopt the necessary measures to:
  - (a) fix the applicable duty referred to in paragraph 1 and the related amounts payable on exports to the country or region concerned by the agreement;

- (b) ensure that processed agricultural products declared for export under a preferential arrangement are not exported under a non-preferential arrangement or vice versa.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

### **Article 36**

#### *Methods of analysis*

1. For the purposes of trade arrangements under this Regulation, the characteristics and the composition of processed agricultural products and non-Annex I goods shall be determined by analysis of their composing elements.
2. The Commission shall, by means of implementing acts, adopt the necessary measures concerning:
  - (a) the methods of qualitative and quantitative analysis of processed agricultural products and non-Annex I goods;
  - (b) the technical provisions necessary for identifying the processed agricultural products and non-Annex I goods;
  - (c) the procedures for the purpose of the CN classification of processed agricultural products and non-Annex I goods.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

### **Article 37**

#### *Adaptation of this Regulation*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 providing for the following:

- (a) adaptations of Annexes I to V including deletion of processed agricultural products and non-Annex I goods and inclusion of new processed agricultural products and non-Annex I goods, to international agreements concluded or provisionally applied in accordance with Article 218 of the Treaty;
- (b) adaptations of Article 2(h) and (i), Article 26 and Annexes I to V to amendments to Annex I to Regulation (EEC) No 2658/87.

### **Article 38**

#### *Exchange of information*

1. Where necessary for the implementation of this Regulation, the Member States shall provide the Commission with the following information:
  - (a) imports of processed agricultural products;

- (b) exports of non-Annex I goods;
- (c) applications for and the issue of inward processing certificates for agricultural products referred to in Article 18;
- (d) applications for and the issue and the use of refund certificates referred to in Article 29(1);
- (e) payments of export refunds for non-Annex I goods referred to in Article 22(1);
- (f) the administrative implementing measures adopted;
- (g) other relevant information.

Where export refunds are applied for in another Member State than that where the non-Annex I goods were produced, information on the production and the composition of the non-Annex I goods referred to in point (e) shall be notified to that other Member State on its request.

2. The Commission may report the information submitted to it in accordance with paragraph 1, points (a) to (g), to all Member States.
3. The Commission shall adopt delegated acts in accordance with Article 40 establishing:
  - (a) the nature and type of the information to be communicated in accordance with paragraph 1;
  - (b) the methods of communication;
  - (c) the rules on rights to access the information or information systems;
  - (d) the conditions and means of publication of the information.
4. The Commission may, by means of implementing acts, adopt the necessary measures concerning:
  - (a) the information necessary for the application of paragraph 1 and its communication;
  - (b) the content, form, timing, frequency and deadlines of the information to be provided;
  - (c) transmitting or making information and documents available to the Member States, the competent authorities in third countries, or the public.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(2).

**Article 39**  
*Negligible amounts*

The Commission shall be empowered to adopt delegated acts in accordance with Article 40 providing for thresholds below which Member States may refrain from applying amounts to be levied or granted pursuant to Articles 3, 5, 10, 22 and 35. The threshold shall be set at a level below which the administrative costs of applying the amounts would be disproportionate to the amounts levied or granted.

**CHAPTER V**  
**DELEGATION OF POWER AND COMMITTEE PROCEDURE**

**Article 40**  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt the delegated acts referred to in Articles 8, 12, 15, 19, 27, 32, Article 34(1), Article 37, Article 38(3) and Article 39 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of powers referred to in Articles 8, 12, 15, 19, 27, 32, Article 34(1), Article 37, Article 38(3) and Article 39 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 8, 12, 15, 19, 27, 32, Article 34(1), Article 37, Article 38(3) and Article 39 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

**Article 41**  
*Urgency procedure*

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The

notification of a delegated act adopted under this Article to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act adopted under this Article in accordance with the procedure referred to in Article 40(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or of the Council.

#### **Article 42**

##### *Committee procedure*

1. For the purposes of Article 13, Article 17(1) and (2), Article 20(1), Article 28, Article 33(1), Article 34(2), Article 35(2) and Article 38(4) and, as regards processed agricultural products and non-Annex I goods other than ovalbumin and lactalbumin, for the purposes of Article 5(1) and (5), and Article 16(1), the Commission shall be assisted by a committee on horizontal questions concerning trade in processed agricultural products not listed in Annex I. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Article 9(1) and Article 21(1) and, as regards ovalbumin and lactalbumin, for the purposes of Article 5(1) and (5), and Article 16(1), the Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 162(1) of Regulation (EU) No .../... [COM(2011) 626 final]. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

For the purposes of Article 36(2), the Commission shall be assisted by the Customs Code Committee established by Article 247a of Regulation (EEC) No 2913/92. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

## **CHAPTER VI FINAL PROVISIONS**

#### **Article 43**

##### *Repeals*

Regulations (EC) No 614/2009 and (EC) No 1216/2009 are repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex VI.

#### **Article 44**

##### *Entry into force and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX I

### Processed agricultural products as referred to in Article 2(b)

**TABLE 1**

Processed agricultural products for which the import duty consists of an ad valorem duty and an agricultural component which is not part of the ad valorem duty, as referred to in Article 3(1)

CN code	Description
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:
0403 10 51 to 0403 10 99	- Yoghurt, flavoured or containing added fruit, nuts or cocoa
0403 90 71 to 0403 90 99	- Other, flavoured or containing added fruit, nuts or cocoa
0405 20 10 and 0405 20 30	Dairy spreads of a fat content, by weight, of 39% or more but not exceeding 75%
0710 40 00	Sweetcorn (uncooked or cooked by steaming or boiling in water), frozen
0711 90 30	Sweetcorn provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption
ex 1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of chapter 15, other than edible fats or oils or their fractions of heading 1516:
1517 10 10	- Margarine, excluding liquid margarine, containing, by weight, more than 10% but not more than 15% of milkfats
1517 90 10	- Other, containing, by weight, more than 10% but not more than 15% of milkfats
1702 50 00	Chemically pure fructose
ex 1704	Sugar confectionery (including white chocolate), not containing cocoa, excluding liquorice extract containing more than 10% by weight of sucrose but not containing other added substances, falling within CN code 1704 90 10
1806	Chocolate and other food preparations containing cocoa



Ex 1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included, excluding preparations of CN code 1901 90 91
ex 1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared, excluding stuffed pasta falling within CN codes 1902 20 10 and 1902 20 30
1903 00 00	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products
2001 90 30	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ), prepared or preserved by vinegar or acetic acid
2001 90 40	Yams, sweet potatoes and similar edible parts of plants containing 5% or more by weight of starch, prepared or preserved by vinegar or acetic acid
2004 10 91	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006
2004 90 10	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ) prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006
2005 20 10	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006
2005 80 00	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ) prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006

2008 99 85	Maize (corn), other than sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ), otherwise prepared or preserved, not containing added spirit or added sugar
2008 99 91	Yams, sweet potatoes and similar edible parts of plants, containing 5% or more by weight of starch, otherwise prepared or preserved, not containing added spirit or added sugar
2101 12 98	Preparations with a basis of coffee
2101 20 98	Preparations with a basis of tea or maté
2101 30 19	Roasted coffee substitutes excluding roasted chicory
2101 30 99	Extracts, essences and concentrates of roasted coffee substitutes excluding those of roasted chicory
2102 10 31 and 2102 10 39	Bakers' yeast, dried or not
2105 00	Ice cream and other edible ice, whether or not containing cocoa
ex 2106	Food preparations not elsewhere specified or included other than those falling within CN codes 2106 10 20, 2106 90 20 and 2106 90 92, and other than flavoured or coloured sugar syrups
2202 90 91, 2202 90 95 and 2202 90 99	Other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009, containing products of heading 0401 to 0404 or fat obtained from products of heading 0401 to 0404
2905 43 00	Mannitol
2905 44	D-glucitol (sorbitol)
3302 10 29	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, and other preparations based on odoriferous substances, of a kind used in the drink industries, containing all flavouring agents characterising a beverage, of an actual alcoholic strength by volume not exceeding 0,5%, other than those of CN code 3302 10 21
3501	Caseins, caseinates and other casein derivatives; casein glues
Ex 3502	Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:  - Egg albumin:

ex 3502 11	- - Dried:
3502 11 90	- - - Other than unfit, or to be rendered unfit, for human consumption
ex 3502 19	- - Other:
3502 19 90	- - - Other than unfit, or to be rendered unfit, for human consumption
ex 3502 20	- Milk albumin, including concentrates of two or more whey proteins:
3502 20 91 and 3502 20 99	- - Other than unfit, or to be rendered unfit, for human consumption, whether or not dried (for example, in sheets, scales, flakes, powder)
ex 3505 10	Dextrins and other modified starches, excluding esterified or etherified starches of CN code 3505 10 50
3505 20	Glues based on starches, or on dextrins or other modified starches
3809 10	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, with a basis of amylaceous substances, not elsewhere specified or included
3824 60	Sorbitol other than that of subheading 2905 44

**TABLE 2**

Processed agricultural products for which the import duty consists of an ad valorem duty including an agricultural component, as referred to in Article 3(2)

CN code	Description
ex 0505	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers:
0505 10 90	- Feathers of a kind used for stuffing and down, other than raw
0505 90 00	- Other
0511 99 39	Natural sponges of animal origin, other than raw
ex 1212 29 00	Seaweeds and other algae, fresh, chilled, frozen or dried, whether or not ground, unfit for human consumption, other than those used in pharmacy
ex 1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products:
1302 12 00	- Vegetable saps and extracts of liquorice
1302 13 00	- Vegetable saps and extracts of hops
1302 19 20 and 1302 19 70	- Vegetable saps and extracts other than saps and extracts of liquorice and hops, vanilla oleoresin and opium
ex 1302 20	- Pectates
1302 31 00	- Agar-agar, whether or not modified
1302 32 10	- Mucilages and thickeners, whether or not modified, derived from locust beans or locust bean seeds
1505 00	Wool grease and fatty substances derived therefrom (including lanolin)
1506 00 00	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified
ex 1515 90 11	Joboba oil and its fractions, whether or not refined, but not chemically modified
1516 20 10	Hydrogenated castor oil, so called ' <i>opal-wax</i> '

1517 90 93	Edible mixtures or preparations of a kind used as mould-release preparations
ex 1518 00	Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of chapter 15, not elsewhere specified or included; excluding the oils of CN codes 1518 00 31 and 1518 00 39
1520 00 00	Glycerol, crude; glycerol waters and glycerol lyes
1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or coloured
1522 00 10	Degras
1702 90 10	Chemically pure maltose
1704 90 10	Liquorice extract containing more than 10% by weight of sucrose but not containing other added substances
1803	Cocoa paste, whether or not defatted
1804 00 00	Cocoa butter, fat and oil
1805 00 00	Cocoa powder, not containing added sugar or other sweetening matter
ex 1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:
1901 90 91	- - Other preparations containing no milkfats, sucrose, isoglucose, glucose or starch or containing less than 1,5% milkfat, 5% sucrose (including invert sugar) or isoglucose, 5% glucose or starch, excluding food preparations in powder form of goods of heading 0401 to 0404
ex 2001 90 92	Palm hearts, prepared or preserved by vinegar or acetic acid
ex 2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other

	sweetening matter or spirit, not elsewhere specified or included:
2008 11 10	- Peanut butter
2008 91 00	- Palm hearts
ex 2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products; roasted chicory and extracts, essences and concentrates thereof, other than preparations of CN codes 2101 12 98, 2101 20 98, 2101 30 19 and 2101 30 99
ex 2102 10	Active yeasts:
2102 10 10	- Culture yeast
2102 10 90	- Other, excluding bakers' yeast
2102 20	Inactive yeasts; other single-cell micro-organisms, dead
2102 30 00	Prepared baking powders
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard
2104	Soups and broths and preparations therefor; homogenised composite food preparations
ex 2106	Food preparations not elsewhere specified or included:
ex 2106 10	- Protein concentrates and textured protein substances:
2106 10 20	- - Containing no milkfats, sucrose, isoglucose, glucose or starch or containing by weight less than 1,5% milkfat, 5% sucrose or isoglucose, 5% glucose or starch
ex 2106 90	- Other:
2106 90 20	- - Compound alcoholic preparations, other than those based on odoriferous substances, of a kind used for the manufacture of beverages
2106 90 92	- - Other preparations containing no milkfats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5% milkfat, 5% sucrose or isoglucose, 5% glucose or starch
2201 10	Natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured
2202 10 00	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured

2202 90 10	Other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009, not containing products of headings 0401 to 0404 or fat obtained from products of headings 0401 to 0404
2203 00	Beer made from malt
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances
ex 2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength other than obtained from agricultural products listed in Annex I to the Treaty
ex 2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol, other than obtained from agricultural products listed in Annex I to the Treaty; spirits, liqueurs and other spirituous beverages
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes
2403	Other manufactured tobacco and manufactured tobacco substitutes; 'homogenised' or 'reconstituted' tobacco; tobacco extracts and essences
3301 90	Extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils
ex 3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages:
3302 10 10	- Preparations of a kind used in the drink industries containing all flavouring agents characterising a beverage of an actual alcoholic strength by volume exceeding 0,5%
3302 10 21	- Preparations of a kind used in the drink industries containing all flavouring agents characterising a beverage of an alcoholic strength by volume not exceeding 0,5%, containing no milkfats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5% milkfat, 5% sucrose or isoglucose, 5% glucose or starch





**ANNEX II**

**Agricultural products, used in the manufacturing of non-Annex I goods, qualifying for export refunds, as referred to in Article 22(1)**

		Agricultural products on which an export refund may be granted						
CN code		Description of non-Annex I goods	A: Reference quantity determined on the basis of the quantity of the product actually used in the manufacturing of the goods exported (art 28 sub d)					Milk products <sup>(5)</sup>
			Cereals <sup>(1)</sup>	Rice <sup>(2)</sup>	Eggs <sup>(3)</sup>	Sugar, molasses or isoglucose <sup>(4)</sup>		
1		2	3	4	5	6	7	
ex 0403		Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa:						
ex 0403 10		- Yoghurt:						
0403 10 51 to 0403 10 99		- - Flavoured or containing added fruit, nuts or cocoa: - - - Flavoured - - - other:	A	A	A	A		
		- - - - Containing added fruit and/or nuts	A	A		A		
		- - - - Containing added cocoa	A	A	A	A		

ex 0403 90	- Other:							
0403 90 71 to 0403 90 99	-- Flavoured or containing added fruit and/or nuts or cocoa: --- Flavoured --- Other:	A	A	A	A			
	--- Containing added fruit or nuts	A	A	A	A			
	--- Containing added cocoa	A	A	A	A			
ex 0405	Butter and other fats and oils derived from milk; dairy spreads:							
ex 0405 20	- Dairy spreads:							
0405 20 10	- - Of a fat content, by weight, of 39 % or more but less than 60 %							A
0405 20 30	- - Of a fat content, by weight, of 60 % or more but not exceeding 75 %							A
ex 0710	Vegetables (uncooked or cooked by steaming or boiling in water), frozen:							
	- Sweetcorn:							
0710 40 00	-- In ear form	A						A
	-- In grain form	B						A

ex 0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption:						
0711 90 30	- - - Sweetcorn: - - - - In ear form - - - - In grain form	A B				A A	
ex 1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of chapter 15, other than edible fats or oils or their fractions of heading 1516:						
ex 1517 10	- Margarine, excluding liquid margarine:						
1517 10 10	- - Containing, by weight, more than 10 % but not more than 15 % of milkfats						A
ex 1517 90	- Other:						
1517 90 10	- - Containing, by weight, more than 10 % but not more than 15 % of milkfats						A
1702 50 00	- Chemically pure fructose					A	
ex 1704	Sugar confectionery (including white chocolate), not containing cocoa:						
1704 10	- Chewing gum, whether or not sugar-coated	A				A	
ex 1704 90	- Other:						
1704 90 30	- - White chocolate	A				A	A

1704 90 51 to 1704 90 99	-- Other	A	A			A	A
1806	Chocolate and other food preparations containing cocoa:						
1806 10	- Cocoa powder, containing added sugar or other sweetening matter:						
	- - Sweetened exclusively by the addition of sucrose	A		A		A	
	- - Other	A		A		A	A
1806 20	- Other preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg:						
	- - Chocolate milk crumb of subheading 1806 20 70	A		A		A	A
	- - Other preparations of subheading 1806 20	A		A		A	A
1806 31 00 and 1806 32	- Other, in blocks, slabs or bars	A		A		A	A
1806 90	- Other:						
1806 90 11, 1806 90 19, 1806 90 31, 1806 90 39, 1806 90 50	- - Chocolate and chocolate products; sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa	A		A		A	A
1806 90 60, 1806 90 70, 1806 90 90	- - Spreads containing cocoa; preparations containing cocoa for making beverages; other	A		A		A	A

ex 1901	Malt extract; food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included:							
1901 10 00	- Preparations for infant use, put up for retail sale:							
	- - Food preparations of dairy products of headings 0401 to 0404, containing less than 5 % by weight of cocoa calculated on a totally defatted basis	A	A	A	A	A	A	A
	- - Other	A	A				A	A
1901 20 00	- Mixes and doughs for the preparation of bakers' wares of heading 1905:							
	- - Food preparations of dairy products of headings 0401 to 0404, containing less than 5 % by weight of cocoa calculated on a totally defatted basis	A	A	A	A	A	A	A
	- - Other	A	A				A	A
ex 1901 90	- Other:							
1901 90 11 and 1901 90 19	- - Malt extract	A	A					
	- - Other:							
1901 90 99	- - - Other:							
	- - - - Food preparations of goods of headings 0401 to 0404, containing less than 5 % by weight of cocoa calculated on a totally defatted basis	A	A	A	A	A	A	A

	--- Other	A	A		A	A
ex 1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous whether or not prepared:					
	- Uncooked pasta, not stuffed or otherwise prepared:					
	- - Containing eggs:					
1902 11 00	- - - Of durum wheat or of other cereals	B		A		
	- - - Other:	A		A		
	- - Other:					
1902 19	- - - Of durum wheat or of other cereals	B				A
	- - - Other	A				A
ex 1902 20	- Stuffed pasta, whether or not cooked or otherwise prepared:					
1902 20 91 and 1902 20 99	- - Other	A	A		A	A
1902 30	- Other pasta	A	A		A	A

1902 40	- Couscous:							
	- - Unprepared:							
1902 40 10	- - - Of durum wheat	B						
	- - - Other	A						
1902 40 90	- - Other	A	A				A	A
1903 00 00	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms	A						
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals, (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked, or otherwise prepared, not elsewhere specified or included:							
	- Unsweetened puffed rice or pre-cooked rice:							
	- - Containing cocoa ( <sup>6</sup> )	A	B	A		A	A	A
	- - Not containing cocoa	A	B				A	A
	- Other, containing cocoa ( <sup>6</sup> )	A	A	A		A	A	A
	- Other	A	A				A	A
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products							
1905 10 00	- Crispbread	A					A	A

1905 20	- Gingerbread and the like	A		A	A	A
	- Sweet biscuits; waffles and wafers:					
1905 31 and 1905 32	- Sweet biscuits; waffles and wafers	A		A	A	A
1905 40	- Rusks, toasted bread and similar toasted products	A		A	A	A
1905 90	- Other:					
1905 90 10	- - Matzos	A				
1905 90 20	- - Communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	A	A			
	- - Other:					
1905 90 30	- - - Bread, not containing added honey, eggs, cheese or fruit, and containing by weight in the dry matter state not more than 5 % of sugars and not more than 5 % of fat:	A				
1905 90 45 to 1905 90 90	- - - Other products	A		A	A	A
ex 2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid:					
ex 2001 90	- Other:					
	- - Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ):					
2001 90 30	- - - In ear form	A			A	
	- - - In grain form	B			A	



2001 90 40	- - Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch	A				A	
ex 2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006:						
ex 2004 10	- Potatoes:						
	-- Other:						
2004 10 91	-- -- In the form of flour, meal or flakes	A	A			A	A
ex 2004 90	- Other vegetables and mixtures of vegetables:						
	-- Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ):						
2004 90 10	-- -- In ear form	A				A	
	-- -- In grain form	B				A	
ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006:						
ex 2005 20	- Potatoes:						
2005 20 10	-- In the form of flour, meal or flakes	A	A			A	A
2005 80 00	- Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ):						
	-- In ear form	A				A	
	-- In grain form	B				A	

ex 2008	Fruits, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:						
ex 2008 99	- - Other: - - - Not containing added spirit: - - - - Not containing added sugar:						
2008 99 85	- - - - Maize (corn) other than sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ): - - - - - In ear form - - - - - In grain form				A B		
2008 99 91	- - - - Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch				A		
ex 2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:						
2101 12 98	- Extracts, essences and concentrates, of coffee and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee:						A
ex 2101 20	- - - Other				A		
2101 20 98	- Extracts, essences and concentrates, of tea or maté, and preparations with a basis of these extracts, essences or concentrates, or with a basis of tea or maté:						
2101 20 98	- - - Other				A		A

ex 2101 30	- Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof:						
	- - Roasted chicory and other roasted coffee substitutes:						
2101 30 19	- - - Other	A				A	
	- - Extracts, essences and concentrates of roasted chicory and other roasted coffee substitutes:						
2101 30 99	- - - Other	A				A	
ex 2102	Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of heading 3002); prepared baking powders:						
ex 2102 10	- Active yeasts:						
2102 10 31 and 2102 10 39	- - Bakers' yeast	A					
2105 00	Ice cream and other edible ice, whether or not containing cocoa:						
	- Containing cocoa	A	A	A		A	A
	- Other	A	A			A	A
ex 2106	Food preparations not elsewhere specified or included:						
ex 2106 90	- Other:						

2106 90 92 and 2106 90 98	- - Other	A	A		A	
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009:					
2202 10 00	- Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	A			A	
2202 90	- Other:					
2202 90 10	- - Not containing products of headings 0401 to 0404 or fat obtained from products of headings 0401 to 0404: - - - Beer made from malt, of an actual alcoholic strength by volume not exceeding 0,5 % vol - - - Other	B A			A	
2202 90 91 to 2202 90 99	- - Other	A			A	A
2205	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances	A			A	
ex 2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 % vol; spirits, liqueurs and other spirituous beverages:					
2208 20	- Spirits obtained by distilling grape wine or grape marc				A	
ex 2208 30	- Whiskies: - - Other than Bourbon whiskey:					

ex 2208 30 30 to 2208 30 88	- - - Whiskies, other than those listed in Regulation (EC) No 1670/2006	A					
2208 50 11 and 2208 50 19	- - Gin	A					
2208 50 91 and 2208 50 99	- - Geneva	A				A	
2208 60	- Vodka	A					
2208 70	- Liqueurs and cordials	A			A	A	A
ex 2208 90	- Other:						
2208 90 41	- - - Ouzo, in containers holding 2 litres or less	A				A	
2208 90 45	- - - - - Calvados, in containers holding 2 litres or less					A	
2208 90 48	- - - - - Other spirits (excluding liqueurs) distilled from fruit, in containers holding 2 litres or less					A	
2208 90 56	- - - - - Other spirits (excluding liqueurs) than those distilled from fruit and other than tequila, in containers holding 2 litres or less	A				A	
2208 90 69	- - - - - Other spirituous beverages, in containers holding 2 litres or less	A				A	A
2208 90 71	- - - - - Spirits distilled from fruit, in containers holding more than 2 litres					A	
2208 90 77	- - - - - Other spirits (excluding liqueurs) than those distilled from fruit and other than tequila, in containers holding more than 2 litres	A				A	

2208 90 78	--- Other spirituous beverages, in containers holding more than 2 litres	A				A	A
ex 2905	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives:						
2905 43 00	-- Mannitol	B				B	
2905 44	-- D-glucitol (sorbitol)	B				B	
ex 3302	Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages:						
ex 3302 10	- Of a kind used in the food or drink industries:						
3302 10 29	----- Other	A				A	A
3501	Casein, caseinates and other casein derivatives; casein glues:						
3501 10	- Casein						B
3501 90	- Other:						
3501 90 10	-- Casein glues						A
3501 90 90	-- Other						B
ex 3502	Albumins, (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives: - Egg albumin:						
ex 3502 11	-- Dried						

3502 11 90	- - - Other than unfit or to be rendered unfit, for human consumption								
ex 3502 19	- - Other:								
3502 19 90	- - - Other than unfit or to be rendered unfit, for human consumption							B	
ex 3502 20	- Milk albumin (lactalbumin):								
3502 20 91 and 3502 20 99	- - Other than unfit, or to be rendered unfit, for human consumption, whether or not dried (for example, in sheets, scales, flakes, powder)								B
ex 3505	Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches, excluding starches of CN code 3505 10 50		A		A				
3505 10 50	- - - Starches, esterified or etherified				A				
ex 3809	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included:								
3809 10	- With a basis of amylaceous substances				A			A	
ex 3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:								
3824 60	- Sorbitol other than that of subheading 2905 44				B				B

(1) Part I of Annex I to Regulation (EU) No .../... [COM(2011) 626 final].

(2) Part II of Annex I to Regulation (EU) No .../... [COM(2011) 626 final].

(3) Part XIX of Annex I to Regulation (EU) No .../... [COM(2011) 626 final].

- (4) Part III, points (b), (c),(d) and (g) of Annex I to Regulation (EU) No .../... [COM(2011) 626 final].
- (5) Part XVI, points (a) to (g) of Annex I to Regulation (EU) No .../... [COM(2011) 626 final].
- (6) Containing no more than 6 % of cocoa.



**ANNEX III**

**Basic products referred to in Article 2(d)**

CN code	Description
ex 0402 10 19	Milk in powder, granules or other solid forms, not containing added sugar or other sweetening matter, of a fat content, by weight, not exceeding 1,5 %, other than in immediate packings of a net content not exceeding 2,5 kg (Product Group 2)
ex 0402 21 18	Milk in powder, granules or other solid forms, not containing added sugar or other sweetening matter, of a fat content, by weight, of 26 %, other than in immediate packings of a net content not exceeding 2,5 kg (Product Group 3)
ex 0404 10 02 to ex 0404 10 16	Whey in powder, granules or other solid forms, not containing added sugar or other sweetening matter (Product Group 1)
ex 0405 10	Butter, of a fat content by weight of 82 % (Product Group 6)
0407 21 00, 0407 29 10, ex 0407 90 10	Poultry eggs, in shell, fresh or preserved, other than for hatching
ex 0408	Birds' eggs, not in shell, and egg yolks, fit for human consumption, fresh, dried, frozen or otherwise preserved, not containing added sugar or other sweetening matter
1001 19 00	Durum wheat, other than for sowing
ex 1001 99 00	Common wheat and meslin, other than for sowing
1002 90 00	Rye, other than for sowing
1003 90 00	Barley, other than seed barley
1004 90 00	Oats, other than for sowing
1005 90 00	Maize (corn), other than seed maize
ex 1006 30	Wholly milled rice
1006 40 00	Broken rice
1007 90 00	Grain sorghum, other than for sowing
1701 99 10	White sugar
ex 1702 19 00	Lactose containing by weight 98,5% lactose, expressed as anhydrous lactose, calculated on the dry matter

1703

Molasses resulting from the extraction or refining of sugar

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## ANNEX IV

### **Processed agricultural products that may be subject to an additional import duty as referred to in Article 5(1)**

CN code	Description of goods
0403 10 51 to 0403 10 99	Yogurt, flavoured or containing added fruit, nuts or cocoa
0403 90 71 to 0403 90 99	Buttermilk, curdled milk and cream, kephir and other fermented or acidified milk and cream, flavoured or containing added fruit, nuts or cocoa
0710 40 00	Sweetcorn (uncooked or cooked by steaming or boiling in water), frozen
0711 90 30	Sweetcorn provisionally preserved (for example, by sulphur dioxide gas, in brine, sulphur water or in other preservative solutions) but unsuitable in that state for immediate consumption
1517 10 10	Margarine, excluding liquid margarine containing, by weight, more than 10% but not more than 15% of milkfats
1517 90 10	Other edible mixtures or preparations of animal or vegetable fats or oils or fractions of different fats or oils of Chapter 15, other than edible fats or oils or their fractions of heading 1516, containing, by weight, more than 10% but not more than 15% of milkfats
1702 50 00	Chemically pure fructose
2005 80 00	Sweetcorn ( <i>Zea mays</i> var. <i>saccharata</i> ) prepared or preserved otherwise than by vinegar or acetic acid, not frozen other than products of heading 2006
2905 43 00	Mannitol
2905 44	D-glucitol (sorbitol)
Ex 3502	Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives:  - Egg albumin:
ex 3502 11	- - Dried:
3502 11 90	- - - Other than unfit, or to be rendered unfit, for human consumption

ex 3502 19	- - Other:
3502 19 90	- - - Other than unfit, or to be rendered unfit, for human consumption
ex 3502 20	- Milk albumin, including concentrates of two or more whey proteins:
	- - Other than unfit, or to be rendered unfit, for human consumption
3502 20 91	- - - Dried (for example, in sheets, scales, flakes, powder)
3502 20 99	- - - Other
3505 10 10	Dextrins
3505 10 90	Modified starches other than dextrins, excluding esterified or etherified starches
3505 20	Glues based on starches, or on dextrins or other modified starches
3809 10	Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, with a basis of amylaceous substances, not elsewhere specified or included
3824 60	Sorbitol other than of subheading 2905 44

**ANNEX V**

**Agricultural products , as referred to in Article 11(1)(a)<sup>1</sup>**

CN code	Description of the agricultural products
0401	Milk and cream, not concentrated nor containing added sugar or other sweetening matter
0402	Milk and cream, concentrated or containing added sugar or other sweetening matter
ex 0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, not flavoured or containing added fruit, nuts or cocoa
0404	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
ex 0405	Butter and other fats and oils derived from milk
0407 21 00	Poultry eggs, in shell, fresh, of fowls of the species <i>Gallus domesticus</i> , other than for hatching
0709 99 60	Sweetcorn, fresh or chilled
0712 90 19	Dried sweetcorn, whole, cut, sliced, broken or in powder, but not further prepared, other than hybrid sweet corn for sowing
Chapter 10	Cereals <sup>2</sup>
1701	Cane or beet sugar and chemically pure sucrose, in solid form
1703	Molasses resulting from the extraction or refining of sugar

<sup>1</sup> Agricultural products taken into account when used in the unprocessed state or after processing or considered to have been used in the manufacturing of the goods listed in Table 1 of Annex II.

<sup>2</sup> Excluding wheat and meslin seed falling within subheading 1001 11 00, 1001 91 10, 1001 91 20 and 1001 91 90, rye seed falling within subheading 1002 10 00, barley seed falling within subheading 1003 10 00, oats seed falling within subheading 1004 10 00, maize seed falling within subheading 1005 10 , rice for sowing falling within subheading 1006 10 10, sorghum seed falling within subheading 1007 10 and millet seed falling within subheading 1008 21 00.

## ANNEX VI

### Correlation Table

<b>This Regulation</b>	<b>Regulation (EC) No 1216/2009</b>	<b>Regulation (EC)No 614/2009</b>
Article 1, first paragraph	Article 1	Article 1
Article 1, second paragraph	Article 3	-
Article 2(a)	Article 2(1), first subparagraph, point (a)	-
Article 2(b)	Article 2(1), first subparagraph, point (b)	-
Article 2(c)	Article 2(1), second subparagraph	-
Article 2(d)	Article 2(2)(c)	-
Article 2(e)	Article 2(2)(a)	-
-	Article 2(2)(b)	-
Article 2(f)	-	-
Article 2(g)	-	-
Article 2(h)	-	Article 1
Article 2(i)	-	Article 1
Article 3	Article 4(1)	-
-	Article 4(3)	Article 8(1)
-	Article 4(2)	Article 8(2)
-	Article 4(4)	-
Article 4	Article 5	-
Article 5	Article 11	Article 3
Article 6(1)	-	Article 2(1)
Article 6(2)	-	Article 2(2)
Article 6(3)	-	Article 2(3), first sentence

Article 6(4)	-	-
Article 7	-	Article 2(3), second sentence
Article 8	-	Article 2(4)
Article 9	-	Article 2(4)
Article 10(1)	Article 6(1) and Article 7(1)	-
-	Article 6(2)	-
Article 10(2)	Article 6(3)	-
Article 11	Article 14 first paragraph	-
Article 12(a) (b) (c)	Article 6(4) and Article 14 second paragraph	-
Article 12(d)	Article 6(4) and 15(1)	-
Article 13(1) and (2)	Article 6(4), Article 6(6), Article 7(2), (3) and (4), Article 14, first paragraph	-
Article 13 (2)	Article 14, second paragraph	-
Article 14(1)	-	Article 4(1)
Article 14(2)	-	Article 4(2), second subparagraph and Article 4(3)
Article 14(3)	-	-
Article 14(4)	-	Article 4(2), first subparagraph and Article 4(3)
Article 15	-	Article 4(1) and (4)
Article 16	-	Article 4(1) and (4)
Article 17	Article 10	-
Article 18	Article 12(1), first and second subparagraphs	-
Article 19	Article 12(1), third and fourth subparagraph	-
Article 20	Article 12(1), third subparagraph	-

-	Article 12(2)	-
Article 21	-	Article 7
Article 22(1)	Article 8(1) and (2)	-
Article 22(2)	-	-
Article 23	-	-
Article 24	-	-
Article 25(1)	Article 8(3), second subparagraph	-
Article 25(2)	-	-
Article 26	-	-
Article 27	Article 8(3), first subparagraph	-
Article 28	Article 8(3), first subparagraph	-
Article 29	Article 8(5)	-
Article 30	-	-
Article 31	-	-
Article 32	Article 8(3), first subparagraph, 8(5) and (6)	-
Article 33	Article 8(3), first subparagraph, Article 8(5) and (6)	-
Article 34	Article 9	Article 5
Article 35(1) and (2)	Article 8(4), first subparagraph	-
Article 35(3)	Article 8(4), second subparagraph	-
Article 36	Article 18, Article 6(5) and Article 8(4), third subparagraph	-
Article 37	Article 13	-



Article 38	Article 19	Article 10
Article 39	Article 15(2)	-
Article 40	Article 16	-
Article 41	Article 16	-
Article 42	Article 16	-
-	Article 17	-
Article 43	Article 20	Article 11
Article 44	Article 21(1)	Article 12
-	Article 21(2)	
-	-	Article 6
-	-	Article 9
Annex I	Annex II	Article 1
Annex II	-	-
Annex III	-	-
Annex IV	Annex III	Article 1
Annex V	Annex I	
-	Annex IV	Annex I
Annex VI	Annex V	Annex II